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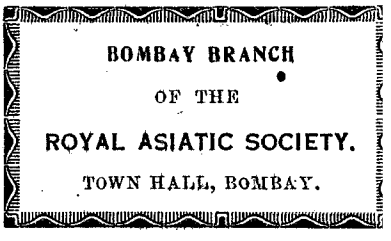

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Government of Bengal

Report of the Land Revenue Commission, Bengal

Volume III

Landholders' replies to the questionnaire issued by the Land Revenue Commission and their oral evidence

Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal
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* For questionnaire, *vide* Appendix II to Vol. II.

Reply by the Bakarganj Landholders' Association.

Q. 1. The duties imposed on the zamindars by the Permanent Settlement are considered by most of them as exhaustive. It did not take away any existing rights from the tenants. The words "generous treatment" in the question seem to be vague. The words of Regulation I of 1793 are "Conduct themselves with good faith and moderation." This they have generally done, though there may be a few exceptions here and there.

Q. 2. Yes, they acquired such power by the Permanent Settlement *ipso facto* inasmuch as they were recognised as the actual proprietors of the soil. Even before the Permanent Settlement they used to let out lands and that right was recognised by Regulations 5 and 18 of 1812 which empowered them to let out even in perpetuity. This, however, does not imply that the zamindar was given the power to deprive anybody of his legal rights.

Q. 3. The landlords improved the lands by clearing jungles, excavating khals, and constructing embankments. They also reserved forests for the supply of fuel and timber and they used to set apart lands in every mauza for the purpose of pasturage and granted rent-free lands for the purpose of habitation of the agriculturists and they made roads and canals for facility of communication, and established *hats* and *bazars* to give marketing facilities to agriculturists and handicraftsmen. In the introduction to the "Zamindary Settlement of Bengal" the author remarks: "The Administration Reports contain acknowledgments of the excellent administration of their estates by several zamindars; among these are names of conspicuous benefactors of their districts and of their kind whose good deeds are an example for even England's nobility; and even the author's acquaintance with but a few zamindars has enabled him to recognise esteemable characters among them." We do not at all consider that they failed to perform the functions expected of them at the Permanent Settlement.

Q. 4. There are arguments for and against this question. Sir John Shore and Lord Cornwallis threw the weight of their opinion in support of the zamindar's proprietary right, and that turned the scale in his favour. Our opinion is that in its inception the zamindari was an office, but gradually more and more power having been added to it, it became hereditary. This was especially the case when the Moghul Emperors' power began to decline. At this time their revenue collections being unsatisfactory, they found it difficult to maintain themselves in their former pomp and grandeur, and were therefore obliged to seek other sources of income. On the other hand the zamindars, now

richer than before, taking advantage of the weakness of the Central Government desired to make their position more secure by means of munificent gifts in the shape of *nazarana* and *peshkash* when a vacancy occurred and a son was a candidate for the father's office. These offers of the zamindars were quite welcome to the Emperors in their needs and were therefore gladly accepted. A few generations of this kind of succession paved the way for their claims as proprietors of the soil. This was facilitated by the fact that the Mahomedan rulers claimed only a right to the revenue and never claimed a property in the soil (*vide* Appendix V, "Zamindary Settlement of Bengal") while, on the other hand, the Khudkasht raiyat had nothing more than an occupancy-right and the Paikasht raiyat had no substantial right at all.

At pp. 121-123 of the "Zamindary Settlement of Bengal" Vol. I, the author quotes from Rouse's "Dissertation concerning Landed Property in Bengal," the opinion of the learned scholar Mirza Mohsen which is entitled to great respect. He says that there are three kinds of zamindari, viz., (1) Jungulboari, (2) Intekaly, (3) Ahekainy and shows how they came to be regarded as hereditary. When once heredity is established, it is not a long jump to proprietorship, though it may be argued academically that heredity does not necessarily connote a proprietary title. To this argument the pertinent reply may be given that in very ancient times there was a class between the actual tillers of the soil and the sovereign and that this class gradually formed the aristocracy of the country with heritable, transferable and proprietary interest in the soil as a natural consequence (*see* Field's Introduction). The title "Chaudhury" which is of Sanskrit-origin has come down from the Hindu Period and has ever since been recognised and used as a mark of distinction of the Zamindar. At page 37, Volume I of the "Zamindary Settlement of Bengal," the author (who is always an advocate of the raiyat) says, "The Mahomedan rulers left the village communities intact, utilised the village and district officers, and in only some parts of Hindustan super-added other officers as Zamindars; or rather allowed the district officers or their immediate supervisors to become, through encroachment, great zamindars. On this point reference may be made to Mr. Holt Mackenzie's definition, at pp. 31-33, Field's footnote, which shows that the zamindary system existed even before Akbar. Hallan's remarks in his History of the Middle Ages quoted in this footnote at page 33, and Shore's remarks at the bottom of the note may also be read with advantage.

Q. 5. The annulment of the Permanent Settlement, if it really takes place, will, undoubtedly, be a serious breach of a solemn pledge which was declared by the highest administrative authority of the time to be prepetual and irrevocable. Relying on this and the solemn declaration that the zamindars will be entitled to get the full benefit

of the reclamation of waste lands, they brought about the reclamation of waste and jungle lands of Bengal at great personal risks and great expenditure of money and immense labour and depending on this promise many persons have taken permanent leases on payment of large amount of salami and many zamindaris have been purchased for large sums of money. People have laid out lots of money on mortgage of zamindaris. The head tenureholder has again sublet permanently on receipt of salami and so forth. The annulment of the Permanent Settlement will not only be a breach of faith or pledge but will spell the utter ruin of many persons and families throughout the province. The economic solution of Bengal will not be achieved by the abolition of the Permanent Settlement. No grounds can be urged why people who invested money in lands in Bengal should be dealt with differently from those who invested money in water-works, municipal debentures, and G .P. Notes. This pledge was given for reasons of State, and, therefore, it was not necessary for Government to consult either the zamindars or the raiyats, much less were they under any obligation to do so. When this important measure was passed, there was no representative of the zamindars or of the raiyats in the Council of the Governor-General, and no association of either of these parties, and to consult every member of these two classes individually was quite impracticable. Hence the argument that the tenants were no party to the measure has no legs to stand on, for, if the tenants were no party to it, the zamindars too were not. As regards its crippling effect on future financial resources we should not lose sight of the fact that after long deliberations it was found absolutely necessary to resort to this measure to get rid of the frequent investigations for revision of land revenue and to ensure its regular and prompt realisation for carrying on the administration. The Permanent Settlement allowed a very small percentage of profit to the zamindars and for this reason most of them were unable to protect their estates from sales under the strict provisions of the sunset law.

The condition of Bengal raiyats is not worse than those of the other provinces. This is proved by the fact that a very small percentage of the coolies working in the mills in Calcutta and its neighbourhood and in the tea-gardens of Jalpaiguri and Assam consists of Bengal raiyats. Coolies from other provinces of India migrate in large numbers to such distant places as Africa, New Zealand, Burma, Fiji Islands, Demarara, British Guiana, etc., but few of the Bengal raiyats do so. This shows that the economic condition of the latter is better. These remarks are supported by the comparative statements issued by Government.

Q. 6. This object has been fully fulfilled by the zamindars at an enormous expenditure. The large increase in the area of cultivated land is due partly to all the three causes, but it is not possible to say

with any degree of accuracy to what extent each has contributed. Increase of population is a natural sequence of peaceful administration. Where this happens, demand for land necessarily increases. This may therefore be regarded as a mere passive contributory cause of the increased cultivation. The real point is whether the credit for it is due to the zamindar or to the cultivator. We are of opinion that to bring about the result it was necessary to spend a lot of money which it was impossible for the raiyat to do. On the other hand money alone, however large the amount may be, without manual labour, could not have reclaimed the waste lands, and so here the co-operation of the raiyat was necessary. Both parties were equally interested in the reclamation as both reaped its benefit. It is impossible to apportion this credit by means of figures, but it may be safely said that the zamindar has well-done what was expected of him.

Q. 7. It is not possible to answer this question with accuracy as statistics of different districts vary widely and those of the whole province are not available to our office. It may, however, be said in a general way, as has been said in answer to question 6, that both zamindars and tenants have contributed their quotas to this increase and that enhancement of previous rents of tenants and settlement of newly reclaimed lands have contributed a great deal. In many cases rent was assessed on tenants under section 52, Bengal Tenancy Act, for excess lands possessed by them (*see* James Mill's replies to questions 3444 and 3445, page 103 of the "Zamindary Settlement of Bengal"). The enhancement in Government estates is greater and more frequent than in private estates as is evidenced by Statement XVI.

Q. 8. They have not failed in being moderate, equitable and generous towards the tenants. Generally speaking, the zamindars' relation with the tenants was very cordial and the tenants were treated with kindness and moderation. The zamindars allowed the tenants to keep even many years' rents unpaid. They did not care for limitation and the tenants also looked upon the landlords as their natural guardians.

Q. 9. Besides the improvement of their lands by extending cultivation, the zamindars did many works of public utility and beneficence of which their tenants fully availed themselves. They have, in many instances, established schools and contributed towards the starting and maintenance of waterworks and hospitals. They constructed roads and irrigation works and spent large sums in digging khals and tanks and constructing bunds, and they advanced money without interest or at low rate of interest to the sufferers in times of calamity; so the blame that they have not done any part of the duties imposed on them by the Permanent Settlement cannot be justly laid on their shoulders. Formerly (before the introduction of the Bengal Tenancy Act) most

cordial relations existed between zamindars and their tenants. The zamindars used to bestow personal attention to all important affairs of management. But when in course of time the number of proprietors increased and difficulties in management began to arise, the appointment of managers and superintendents became indispensable. In this way there was unavoidable want of touch between tenants and the zamindars and some of the latter began to settle in town but retained control over their estates through managers who, in most cases, have rendered honest and efficient services. It cannot therefore be said that there has been failure or neglect on the part of the zamindars in improving their estates or looking after the welfare of their tenants on account of their absenteeism or want of touch.

Q. 10. In one sense the Permanent Settlement is economically unsound inasmuch as it has limited the land revenue of Government and distributed a considerable part of the rents paid by the cultivators amongst various grades of tenureholders between them and the zamindars, but when it is considered that a very large portion of this loss to Government has been recovered by the passing of the Cess Act, there should not be any complaint on this ground. The subinfeudations have done no injury to the cultivator, for he does not pay more to the lowest tenureholder than what he would have paid to the zamindars had he been directly under the latter. The general rate of rent of cultivators in khas mahals does not compare favourably with that of zamindary mahals. The subinfeudations have helped to improve the economic condition of a large number of middlemen. Considered from this viewpoint it may be reasonably said that the Permanent Settlement has been for the greatest good of the greatest number and that the landlords have not benefited at the expense of the tenants (*see* Sir John Shore's remarks at page 90, Vol. I, "Zamindary Settlement of Bengal", and Statement IX of Government).

Q. 11. The criticism is not justified. The bulk of the income from land is distributed amongst the tenureholders. The appropriation of a large percentage of income by landlords after long suffering and losses in the beginning is not improper and unreasonable. Further, the whole of the income—the correctness of the percentage calculated is not admitted—does not go to the coffers of the zamindars. A large portion of it goes to the actual cultivators in their capacity of tenureholders and a large portion of the loss has been recovered by the Cess Act.

Subinfeudation was necessary for the purpose of reclamation and improvements of land. It existed from before the Permanent Settlement. It has benefited a large number of middlemen, has not injured the actual cultivator (*see* Sir John Shore's remarks quoted at page 90, Vol. I, "Zamindary Settlement of Bengal") hence it cannot be called an evil.

The Permanent Settlement has not led to enhancement of raiyats' rent. Rents are enhanced by Government in the khas mahals, and this is done more frequently than in zamindary mahals. If the Commission be pleased to compare the enhancement of khas mahals with that of the zamindary mahals in the last hundred years (*vide* Statement XVI) the information they will get will be most instructive.

It is true that the Permanent Settlement has created a system of overlordship, but these are not harassing and oppressive as a rule. Each class of tenants has only one class of landlords, and so the burden of all cannot fall on any one class. The system is quite harmless and was brought into being by various circumstances which need not be stated here.

Q. 12. No.

Q. 13. We do not approve of any of these methods for increasing revenue or making up the loss which is rather imaginary. The first two means are disastrous and ruinous to the people in general and specially to the gentry. Tax on agricultural income tantamounts to abolition of the Permanent Settlement. Any tax on land or its produce, is a violation of, and inconsistent with, the Permanent Settlement. In this connection, reference may be made to the agitation at the time of levying road cess and the despatch of the then Secretary of State for India. That will show that the Permanent Settlement was recognised as a sacred pledge.

Q. 14. No reply needed.

Q. 15. No reply needed.

Q. 16. This is a very technical question of political economy and political philosophy, and it is difficult to find a parallel of the contemplated action in history. So far as we can guess, it will create a social revolution. Landholders will have to suffer a great loss. Private officers serving under zamindars and talukdars will be thrown out of employment. Thousands of families will have to starve. Cordiality and mutual help will be rare. Literary and intellectual advancement will be retarded. Communism and socialism will have a firm basis; the present order of the society will be turned upside down and proletariat will rule the aristocracy, and offences of various kinds, especially those against person and property, will increase.

Q. 17. No. The change will not be to the advantage of any of the parties concerned.

Q. 18. It is not possible to answer this question without detailed calculation with the acumen of an actuary.

Q. 19. The sensible raiyats are not likely to do this but others, impelled by the apparent signs of the time and in the hope of a millennium, may do so, but they will soon rue their choice. The khas mahal raiyats are not happier than the raiyats of permanently settled estates. The lot of the raiyats in temporarily settled estates is midway between these two (*see* Statements IX and XVI).

Q. 20. It cannot be said that the result of the Permanent Settlement was subinfeudation. The zamindar being unable to reclaim large tracts of jungles was forced to bring in middlemen for the purpose, otherwise reclamations would not have been possible and the demand for land could not have been adequately met by the supply. Large and small capitalistic settlements were considered necessary in reclamations of Sundarbans area (*vide* Pargiter and Ascoli's "History of Sundarbans"). Intermediate tenures may have some effect in the creation of higher raiyati rates in some places but they have not resulted in uneconomic raiyati holdings.

Subinfeudation existed from before the Permanent Settlement even against the prohibition of the Government as zamindars required money for reclamation. Similarly after the Permanent Settlement also, they required money for the same purpose and the Government recognising the necessity, permitted it. Not more than one-fourth of the original zamindary settlement holders, do now own their zamindari. The others are either purchasers or persons on whom the recusant proprietors' zamindaris were thrust by Government. They instead of laying out their money in industry and enterprises invested it in lands, i.e., immovable property. No fault can be found with them and they cannot, in equity, be deprived of their lands. Tenureholders advanced money and helped the raiyats largely in times of need and years of scarcity. They were doing so all along until the passing of the Bengal Agricultural Debtors' Act stopped it.

Q. 21. There will be a complete social revolution as in Russia, and the economic structure of the province will be so altered that its effect will be disastrous to the middle class gentry whose position now corresponds to that of the English yeomanry. The middle classes are like the pillars of the State, and if they are pulled down, great will be the fall of the superstructure, for they will be communists and will desire the downfall of the Government.

Q. 22. The question is not well understood. On general principles those whose zamindaris and tenures are purchased by the State should be treated very leniently because of the forcible nature of the act, and they should be allowed to hold their homstead revenue free and their private khas lands as permanent tenure at a nominal rent. There should not be any practical difficulty about ascertaining the extent of their khas lands.

Q. 23. It seems to be a creation of British legislation, though some historians give the opinion that the Khudkasht raiyats of ancient time had occupancy right without any proprietary right.

Q. 24. We do not subscribe to the opinion that the cultivating raiyats have always been the actual proprietors of the soil. Those who hold this opinion may have had in their mind the "peasant proprietors" of Upper India whose status is quite different from that of the Khudkasht and Paikasht raiyats of Bengal. Rent was always levied for carrying on the general administration which included protection of person and property as well as various other matters. It is a mistake to suppose that to protect the person and property of the raiyats alone was the duty of the State. It was bound to protect also those of zamindars, merchants, officers, shopkeepers, labourers and other classes of subjects. Whether the levy is called "rent" or "tax," it makes no difference in its true import. A proprietorship connotes absolute ownership with the right of inheritance and transfer and all other corporeal rights without let or hindrance, i.e., subject to no interference from anybody else. Neither of the two classes of raiyats mentioned above had any such right of transfer but the "peasant proprietors" of Upper India had such a right as may be inferred from the text of Manu. It should always be remembered that these "peasant proprietors" were never anybody else's raiyat and that the recent amendment of the Bengal Tenancy Act abolishing the landlords' transfer fee in the teeth of their vehement opposition was in direct contravention of their rights under the Permanent Settlement.

Q. 25. The occupancy right should be confined to the actual tiller of the soil except the bargadar who is a mere labourer. The occupancy right should not descend lower than the under raiyat.

Q. 26. The raiyat who transfers his possession to an under raiyat *ipso facto* loses his occupancy right and so deserves no protection against his own voluntary act. If he transfers a part, he loses occupancy right in this part only, and if he transfers the whole, he loses the whole.

Q. 27. Lord Cornwallis reserved the right of interference to protect not only the raiyat, but also the subordinate taluqdars who were mostly non-agriculturists. It is not advisable to give occupancy right to non-agricultural tenants (*vide* minutes at pp. 143-144, "Zamindary Settlement of Bengal", Volume I).

Q. 28. The answer to this question is not so simple as the question is. A raiyat enjoying an agricultural tenancy is not protected by law if he converts his agricultural land into non-agricultural land (sections 23 and 25, Bengal Tenancy Act) but a proprietor has got that right

under the terms of the Permanent Settlement. The raiyat is liable to eviction if he makes such alteration, but the proprietor is not. This makes all the difference. In neither case has the State any right to claim additional rent, but if the income of the non-agricultural land (so converted) comes within the scope of the Income-tax Act or any other special Act, a tax may be levied by the State under that Act in such manner and to such extent as may be permitted by it.

Q. 29. Yes, it is on the increase. Among the causes of this may be mentioned (1) increase of population among raiyats which compels them to cultivate lands in barga because their income from raiyati lands is not sufficient for the maintenance of their families; (2) unwillingness on the part of non-agricultural persons having khas lands to lease these lands in rent, for fear of losing them for good by the raiyat acquiring occupancy right in them and the difficulty of realising money rent under the recent legislative enactments; (3) the unrestricted transfer of occupancy rights and the consequent loss of lands by raiyats who are thus gradually becoming landless and therefore are obliged to cultivate barga lands to maintain their families; (4) the acquisition of more lands by richer cultivators than what they can cultivate with the aid of their own family members obliging them to let out a portion of their lands to bargadars.

Q. 30. (*i*) The fact that the Amending Act of 1929 has not given the bargadar any statutory right is no cause for the increase of cultivation under the barga system. It is rather likely to decrease the cultivation under this system.

(*ii*) This is a likely cause of the increase and probably one of the chief causes. The answer to the last question may be read in this connection.

(*iii*) This is also a likely cause if the sale was to a non-agriculturist or to an agriculturist who had more land than what he could cultivate with the aid of his family members.

Q. 31. The area normally held by a bargadar is about two acres. Most of the bargadars have other lands either in raiyati or in under-raiyati holding or in both.

Q. 32. No. The bargadar being nothing more than a labourer is not entitled to any protection more than an ordinary day labourer deserves. If any protection is desired it can be given by increasing the bargadar's share of the crop by legislation, but there is one danger in this that the owner or occupier of the land may be inclined to have it cultivated by day labourers instead of bargadars if that course be more profitable to him.

Q. 33. It is economically sound inasmuch as it supplies food to poor landlords, poor cultivators and landless labourers; for under this system, the poor landlord and landless labourer get crops whose money-value is more than rent and wages while the stock of grain is a surer means of livelihood than either rent or wages. On the other hand the poor cultivator can eke out his small income from his holding by the income of the lands he cultivates in barga.

Q. 34. (*i*) Landholders having khas lands in their possession and living near these lands will get them cultivated by hired labourers who will be paid either in money or in grain. There will be an unhealthy competition among the latter the effect of which will be a reduction in their wages.

(*ii*) The present bargadars will be thrown out of employment and the money or grain wages which they will get instead of a share of the crop will not be sufficient for their maintenance.

(*iii*) Day labourers will not cultivate the land with that amount of interest and diligence with which a bargadar cultivates, and the result will be a reduction in the outturn of crops.

(*iv*) Poor landholders whose chief means of livelihood is the share of the crop they get, especially those who live at a ditsance, will be in very bad plight, for, being unable to supervise the cultivation of their lands by hired labour, they will be obliged to lease them at a money rent or rent in kind. This will not bring them sufficient income for their maintenance while, on the other hand, they will lose their land for ever, for the lessee will soon get an occupancy right in it; so this will bring economic distress to all concerned.

Q. 35. The present rate is one-third to one-half according to the quality of the land. This is considered fair. There is no objection to fixing a maximum of two-thirds of the produce; but in this there is the apprehension stated in answer to question 32.

Q. 36. Wages of agricultural labourers vary according to abundance or paucity of them and according to the prevailing market price of food grains. The average may be taken at 4 annas per diem plus food. Labourers are often employed at monthly rates or even at yearly rates where various kinds of crops are grown all the year round. In such cases their wages are cheaper. Generally speaking, labourers are economically worse off than bargadars and under-raiyats.

Q. 37. The unrestricted right of transfer given to occupancy raiyats by the amending Acts of 1929 and 1938 have led, as was apprehended at the time, to the transfer of large quantities of agricultural lands to non-agriculturists. We are not in favour of transfer to agriculturists only, for that will have the effect of (*i*) widely unequal

distribution of land, and (*ii*) reducing many of the vendors to field labourers, for a non-agricultural purchaser generally lets out the land in barga to the vendor while the agricultural purchaser generally cultivates the land with the aid of his family members. It may not be impracticable but it is feared that it will not conduce to the economic benefit of cultivators as a class for it is likely to reduce the value of the land in addition to the two effects stated above. There seems to be no better suggestion than that of a return to the state of things before 1929.

Q. 38. 5 acres.

Q. 39. Yes, original economic holdings gradually becoming uneconomic for the causes mentioned.

Q. 40. By cultivation and harvesting on the co-operative system and by proportionate division of the crops after harvesting among the owners of the field who form the co-operative society. If it be possible, cultivation and harvesting by means of machinery will be much cheaper and speedier. Of course details of this system will have to be worked out by experts and the cultivators will have to be trained in this method.

Q. 41. There will perhaps be no objection to this on the part of landlords if the tenants agree and if the realisation of rent be not hampered. This process of increasing the size of holdings by exchange and purchase is already in vogue and the right of pre-emption given to co-sharers is likely to give an impetus to it.

Q. 42. The accumulation of large areas in one hand is undesirable (*vide* answer to question 37). A limit of 5 acres for every 5 members of a family may be considered to be fair. We cannot give a practical suggestion for preventing large acquisition of raiyati holdings.

Q. 43. Coparcenary, far from being detrimental to good cultivation, is rather conducive to it so long as there is agreement among the coparceners. When difference arises and good cultivation begins to be interfered with, the parties should have their lands partitioned by court or arbitrators. In making this partition the court or arbitrator should, as far as possible, try to make each lot an economical one. If any of the lots be unavoidably too small, a right should be given to the bigger shareholders to purchase it. This will not interfere with the laws of inheritance.

Q. 44. No attempt should be made in this direction lest the remedy should prove to be worse than the disease. A perfect legislation on this subject in the present state of the society is inconceivable.

Q. 45. The meaning of the question is not clear.

Q. 46. When enhancement of the rate of rent was not expressly forbidden, when Lord Cornwallis reserved powers for interference in favour of the raiyat, when rates of rent are increased in Government khas mahals, when subsequent legislations, such as Act X of 1859 and Act VIII of 1885, sanctioned enhancement of rate of rent on certain specified grounds, it cannot be reasonably said that this was not contemplated. Had it not been contemplated, there was nothing to prevent the Governor-General from fixing the raiyats' rent when he fixed the zamindars' revenue in perpetuity.

Q. 47. No. Reasons given in the last answer.

Q. 48. Needs no reply in view of the last two answers; (*d*) and (*e*) of the question are mere academic and can be easily refuted.

Q. 49. If it be supposed—there is no good ground for such a supposition—that the authors of the Permanent Settlement desired that the rents of the tenants then existing should never be increased, this fact gives no valid ground for the supposition that the rents could be reduced in future and brought to the level prevailing at the time of the Settlement. Sufficient material is not available for determining what those rates were and for distinguishing those tenants who are successors-in-interest of those existing at the time of the Settlement and those who have taken settlement subsequently. Section 38 of the Bengal Tenancy Act gives sufficient power to the courts, for reasons stated therein, to reduce the raiyats' rent. We are of opinion that no further concession is necessary. In the case of raiyats who do not possess sufficient land for the maintenance of their families relief may be given by Government by opening suitable industries.

Q. 50. In our opinion this question does not arise, for we think that it was not the intention of the authors of the Permanent Settlement that the rent should remain unalterable.

Q. 51. There is no sufficient ground for supposing that the authors of the Permanent Settlement desired that all settlements of waste lands should be done at "pargana rate," and this expression is a vague and indefinite one. History will show that there was no such fixed rate. Rates of rent always varied according to the quality of the soil and the kind of crop grown even in the same village (*vide* "Zamindary Settlement of Bengal," Appendix, here and there).

Q. 52. Arguments can be advanced for and against each and all of these methods; so none of them can be recommended as the method best suited to Bengal. The existing provisions of the Bengal Tenancy Act seem to be adequate.

Q. 53. Our Association is not in possession of sufficient data for answering this question. There are various factors in the assessment of

rent. We do not think that it is right to characterise the majority as lump rent, nor can we say to what extent rents are fixed on custom, competition and consideration of the productivity of the land. The last mentioned cause seems to have operated in most cases. It is true that even in the same village the rates of rent differ for lands of similar description.

Q. 54. Our answer to the first part of this question is an emphatic "No". There is no ground for the supposition that the poorer and weaker tenants pay higher rents. It is rather our experience that in fixing new rents landlords, as a rule, prefer honesty to wealth, and so if a poorer and weak tenant be honest and reliable, he is admitted even at a concession rate of rent, the object being to ensure regularity of payment.

Second part—Those mentioned in Chapter V of the Bengal Tenancy Act.

Q. 55. It will not be just and fair to assess all kinds of land in every part of Bengal on a uniform basis; so this cannot be recommended. There should be a fresh record of rights and each kind of land should be dealt with on its own merits. Of course this will be a Herculean task involving enormous expenditure.

Q. 56. We do not consider that a definite share of the produce or its equivalent in money should be paid by all cultivators as rent to his landlord, but if this be the desire of the authorities, we shall propose $\frac{1}{6}$ to $\frac{1}{4}$ of the produce or its equivalent in money according to the value of the produce as a fair and equitable rent. This, however, does not apply to barga lands.

Q. 57. It will be imprudent to fix the rent in perpetuity. It should vary according to the money value of the produce, and the needs of the State from time to time and the period of revision should be 30 years.

Q. 58. There will be no advantage and it will be very difficult to ascertain the profits on which the income-tax will be assessed. A great many people will escape assessment at the inception as a minimum exemption-income will have to be allowed, and their number will go on increasing from year to year.

Q. 59. The previous legislators bestowed deep and anxious thoughts on this subject, and therefore what they embodied in the tenancy legislation may be reasonably supposed to be just and fair. The defects that may be pointed out are more or less of a controversial nature, and may be questioned either by the landlord or by the tenant.

Q. 60. There is no good ground for supposing that the tenant should get all the benefit of improvement by fluvial action and the State or landlord nothing. This being due to an act of nature, both parties should reap its benefit in due proportions.

Q. 61. No, this is also an unearned income and the landlord should have a share of the profit.

Q. 62. No, for the distinction between one who requires his whole produce for his own consumption and one to whom a surplus is left is impracticable in actual working. If this be logical, then it is also logical to make different degrees of enhancement according to the quantity of surplus. But how long can this continue? Is it not a fact that every year many cultivators' lands are added to or subtracted from by new acquisition or alienation respectively, and that family members increase or decrease frequently by birth, death, marriage and other causes?

Q. 63. First part—No. Second part—If reliable evidence of the improvement be available, there is no reason why sufficient consideration should not be given to it. There is always the chance of a difference of opinion about facts. Salami is not advance rent—it is a compensation or consideration for alienation of interest.

Q. 64. Courts and Settlement Officers have already got ample power for reducing contractual rent on certain grounds (*vide* section 38, Bengal Tenancy Act) and hence no new legislation is necessary. There should be no legislation for limiting rents for new settlements and it is doubtful whether this will be possible on right lines. The economic law of demand and supply should operate freely.

Q. 65. Chapter X of the Bengal Tenancy Act with its numerous amendments made since 1885, so far as they relate to raiyats, under-raiyats and Government seems to have embodied in it almost everything calculated to benefit these parties, but the same helping hand has not been extended to proprietors of permanently settled estates. This differential treatment is not justified; for, under this treatment, rents in temporarily settled estates are periodically enhanced for increasing Government income at the sacrifice of the raiyats and farmer-proprietors, while proprietors of permanently settled estates cannot get even a small enhancement, though perfectly justified, and when they get any, it is obtained at a prohibitive cost. If help to the raiyats or actual cultivators be the object aimed at, they should receive equal treatment in both kinds of estates. (*See* Statements IX and XVI.)

Q. 66. No such instance is known to this Association, but cases of excessive enhancement in Government estates and temporarily settled

estates are known. It is said that during the district settlement operations of this district (Bakarganj) the majority of the cases of enhancement under section 105, Bengal Tenancy Act, were decided by mutual consent of landlords and tenants. The enhancements in Government and temporarily settled estates were due to the over-zealousness of Settlement Officers for increasing Government revenue.

Q. 67. Yes, revisional settlements are made with the object of enhancing revenue.

Q. 68. Yes. Especially diara estates, temporarily settled estates and Government khas mahals may be cited where enhancements are obviously unfair.

Q. 69. It was certainly a mistake on the part of the Government to enhance raiyati rents during the years when prices were steadily going down. This policy naturally led to legitimate grievances on the part of tenants and of the settlement holders.

Q. 70. This seems to be due to various reasons, such as competition on account of increase of population, different ideals and idiosyncrasies of different Settlement Officers and the like. The foundation of the difference was laid at the time of the original settlement, and it became wider and wider at each subsequent settlement.

Q. 71. The rules about remission of revenue in Government estates are occasionally, though rarely, acted upon but those in regard to remission of revenue in permanently settled estates are practically a dead letter. The ordinary reasons in the first case are unwillingness and indifference of local officers to report the true state of things to the superior authorities with a recommendation for remission lest their action should be disapproved and they should be considered unfit to hold their posts. The reasons in the second case are (1) ignorance and apathy of the zamindars, and (2) the necessity of opening test works which require the sanction of the Government which cannot be easily obtained.

The rules may be improved by—

(1) abolishing the condition of opening test work.

(2) authorising the Collector to report for remissions in cases where he is satisfied after a personal local inquiry that the majority of the raiyats are unable to pay their rents.

(3) compelling the zamindar to suspend collection of rent from raiyats in cases where the Collector so reports for remission.

Q. 72. Figures given by different Settlement Officers have been circulated by Government. It is not known how these figures were

arrived at. Our figures based on actual inquiries from bona fide cultivators are as follows:—

Crops.	Cost of cultivation per acre.	Average yield per acre.
	Rs.	Maunds.
Jute	50 to 60	12 to 15
Aman rice	20 to 22	15
Sugarcane	150 to 225	60 (*Gur.*)

This includes the cost of labour of the family members, price of seed and rent.

Q. 73. No reliable evidence is available, but it is said that char lands and newly reclaimed waste lands are more fertile than old lands. Among the causes of deterioration of the latter may be mentioned—(1) neglect of tenants to manure their fields, (2) want of proper drainage on the one hand and irrigation on the other, (3) neglect to give rest to the fields to recuperate, (4) want of deposit of loam by fluvial action, (5) ingress of brakish water in Sundarban tracts, (6) defective or excessive rainfall for several years continuously. Government has done little, by distribution of manure and better seed, to improve the productivity of the soil.

Q. 74. The cultivators scarcely take advantage of the provisions of these Acts because they know nothing about them and the officers of the Agriculture Department do not care to explain the advantages to them. It is also probable that some of the provisions of these Acts are inconvenient to them.

Q. 75. This is not known to this Association. It may be due to the economic and financial strain of recent years.

Q. 76. Yes, this is being done since an opinion was received from the Advocate-General about 20 years ago that this levy was legal. The Association is not in a position to answer the last portion.

Q. 77. The land system of Bengal does not appear to be in any way responsible for the present uneconomic condition of the raiyats. Since the year 1859 Government policy has been decidedly in favour of the raiyats. The economic depression of the raiyats is due not only to local causes but also to world causes, and landlords have suffered from them no less than the raiyats, for their condition is interdependent on each other. To make suggestions for ameliorating the condition of the raiyat, it is necessary first to ascertain the causes after a patient and impartial investigation. It is not possible, in the limited scope of this answer, to make any intelligent suggestion, for unless it is supported by cogent reasons with undisputed facts and statistical figures, it is not likely to carry conviction. There are a number of pertinent remarks in

Mr. Sachin Sen's brochure entitled "The Permanent Settlement in Bengal." This Association begs to invite the Commission's attention to it in the hope that its perusal will lead to a true understanding of the different causes which are responsible for the present uneconomic condition of the peasants and to the application of appropriate remedies for their redress. Density of population, reclamation of almost the whole of the waste lands, the smallness of holdings, the primitive mode of cultivation, laws of inheritance and lack of a spirit of co-operation, home-sickness, laziness and prejudice of the cultivators, high rate of interest and lack of facility in obtaining credit on easy terms, extravagance, lack of marketing facilities, ignorance and illiteracy and several other causes have contributed more or less to bring about the present condition of the raiyats. Above all, the worldwide trade depression that has been going on since the great European war seems to be the greatest factor of this result. It is a mistake to suppose that the Permanent Settlement is responsible for it, for 2 or 3 decades ago the raiyats were so prosperous that a great many of them built big houses with corrugated iron roofs and sal posts, bought race-horses, gave gold and silver ornaments and costly saris to their wives and children, spent lots of money on ceremonial occasions and paid their rents regularly, which could not have been done had the Permanent Settlement been at fault. Especially during the period when the prices ruled high, many of them invested large sums of money in land by means of lease, purchase or usufructuary mortgage. This clearly shows that under normal economic conditions of the world the land revenue system of Bengal worked admirably to the benefit of the cultivators.

Q. 78. Mr. Sachin Sen has calculated the average annual income of an agricultural family of five members from their holding to be Rs. 406 and their income from subsidiary occupations has been found by the Banking Enquiry Committee to be Rs. 44. Thus the total comes to Rs. 450. The same Committee has estimated their average annual expenditure to be Rs. 420 (details given at p. 11 of Mr. Sen's brochure). This leaves a balance of Rs. 30 per family or Rs. 6 per member. There are no data in our possession for answering the second part of the question.

Q. 79. The present system is not satisfactory as there is no machinery for bringing it up to date. It is extremely difficult to prepare a correct and up-to-date record of rights on account of the variety and complication of the rent system and land tenures, fluvial changes, law of inheritance, sales, etc. There is no utility in keeping a full statement of crops year after year at a great expense.

The U. P. system is not known to us.

Q. 80. All these suggestions are likely to be very helpful for increasing the raiyats' income. In addition, they should be given a general and agricultural education.

Q. 81. As stated in answer to Q. 77 density of population is one of the causes of the poverty of the agriculturists, but it may not be one of the main reasons. We are unable to answer the second part of the question as we are not in possession of the necessary statistics.

Q. 82. A single means, as suggested in this question, is not enough. Some pertinent suggestions are made by Mr. Sachin Sen which are quoted here:—

> "The pressure on the soil should be removed and that can be done by extending and intensifying cultivation, by resort to emigration, by the diversion of population from agriculture to industries and by social reform movement which would consist of higher education to women, late marriage and restriction of birth. Military service (army, navy and air force), mercantile and marine service may also be suggested."

Q. 83. A State-aided Agricultural Credit Bank with a large number of branches should be established in the province. A suggestion to this effect has been made by our Association, and a printed copy of it is annexed for favour of perusal. Mr. Sachin Sen's suggestions at pp. 25—29 of his brochure "Permanent Settlement in Bengal" may also be looked into. The Bengal Agricultural Debtors' Act has greatly hampered credit to agriculturists, and therefore this Association has recently drafted an amendment thereof for their benefit. A printed copy of this is also annexed for perusal. At present there exists no organisation, Government or private, except the co-operative credit societies, and private money-lenders, for giving loans to agriculturists.

Q. 84. It is true that a certain percentage of the raiyats' income goes to the mahajans as interest on loans; 25 per cent. seems to be too high an estimate.

This can be stopped by establishing State-aided Credit Banks as suggested in answer to Q. 83. If these banks pay up the raiyats' existing debts by lending them money at a low rate of interest, they may take a fresh start and if measures be taken for improving export of agricultural produce and increasing its price, money will be induced into their hands and so in course of time they will be solvent and there will be no such drain as stated above.

Q. 85. The Co-operative Societies appear to have done good work so far as they have gone, but they have not gone far enough. Their rate of interest is not too high, but in view of the present straitened

circumstances of the agriculturists, a more favourable rate seems to be desirable. It is said that not more than one in fifteen of agricultural debtors has been benefited by them. This unsatisfactory result seems to be due partly to the ignorance and illiteracy of agriculturists, and partly to the formalities of the law, great publicity, unlimited liability, and forcible measures for the realisation of the debt. There are no data in our possession for answering the last sub-question.

Q. 86. Debt Settlement Boards have not been able to deal with the problem of agricultural debts in the manner that was expected of them. They have rather created unrest and ill-feeling between debtors and creditors and the result is that agriculturists find it extremely difficult to obtain credit. There are various defects in the Act in consequence of which unscrupulous non-agricultural debtors are taking the advantage of its provisions with a view to defraud the creditors, and this is facilitated by the fact that in most cases the Boards consist of men who are half-educated and not above suspicion. Their great dilatoriness is another cause of their unpopularity and the influence of Special Officers who supervise their work also plays no small part in that direction. Our Association has drafted an amendment of the Act a printed copy of which is annexed for favour of perusal.

Q. 87. We approve of this suggestion and have said so in answer to Question No. 83.

Q. 88. Land Mortgage Banks are of recent origin and this Association has no particular knowledge of their working. As most of the loan offices are in difficulty and long-term loans are not available at present, these banks may be tried at first in some selected places, and if found to be successful, may be gradually extended to other places.

Q. 89. The only machinery for this purpose is the Civil Court. It is true that proceedings there are costly, cumbrous and dilatory. They are not more harassing and expensive to the tenants than to the landlords. Reduction of court-fees on plaints, process-fees, vakalatnamas, and petitions will give great relief to both parties. Proceedings are greatly shortened and costs greatly reduced if powers like those under the Public Demands Recovery Act be given to the Civil Courts for realisation of arrear rents.

Q. 90. There is no sufficient ground for thinking that the recovery of rent through the Public Demands Recovery Act is more harassing than the recovery through the Civil Court, and if that be true, it cannot be more objectionable. Certificate power given to the Civil Courts is likely to effect speedier recovery of rent without undue harassment to the tenants.

Q. 91. It is not possible to give any answer to this question without knowing what shape the intended "up-to-date and simple" codification should take. There is no objection to the repeal of the old Regulations and earlier Acts and replacement thereof by a simple Act embodying their main provisions if this be done without any injury to the Zamindars, independent Taluqdars and other actual proprietors of land as defined in the Regulations of the Permanent Settlement. Any attempt in that direction is, however, likely to engender a natural suspicion in the proprietors' minds.

Q. 92. Act XI of 1859 and Rgulation VIII of 1819 may be mentioned. This Asociation has recently given its opinion about a private bill seeking amendment of the former. This Act seems to have fully justified its object and so it should not be so amended as to jeopardise the regular collection of Government revenue. Some suggestions for the amendment of Regulation VIII of 1819 have been recently received from Babu Amarnath Mukherjee of Howrah. As this Regulation is generally considered to be harsh in its operation, these suggestions seem to deserve due consideration.

Q. 93. (I) The abolition of the landlords' transfer fee is a great blow to them not only because they have suffered enormous pecuniary loss on account of it, but also because it has denied them a cherished right which they have enjoyed at least since the Permanent Settlement.

(II) They would have no particular objection to the right of pre-emption being given to the co-sharer of occupancy raiyats, if there were any provision in the amending Act to the effect that in case no co-sharer exercised his right within a specified time, the landlord would be entitled to exercise that right. Such a provision would not prejudice either the vendor or his co-sharer, but would keep away a purchaser who is an enemy of the landlord or the neighbouring tenants or otherwise undesirable to them. This amendment, therefore, is also greatly prejudicial to the landlords' interest.

(III) While interest on arrear rent has been reduced from 12½ per cent. to 6¼ per cent. the interest demand of Government on arrear cess of proprietor has been allowed to remain as before at 12½ per cent. This is extremely improper and cannot be justified by any reasoning. Amendments (I) and (III) have materially affected the pecuniary interest of landlords. On the other hand the provision that all usufructuary mortgages for whatever period will terminate after 15 years' use has done far more injury to the cultivator than to the proprietor, for by far the greater portion of the usufructs is enjoyed by richer cultivators and professional moneylenders and a very small portion by proprietors. When there was no unrestricted right of sale of occupancy holdings, the raiyats evaded the restriction of law by giving their lands

in usufructuary mortgage for very very long periods some running to 200 to 300 years. In this way the mortgagors got the full market price of out-and-out sales while the mortgagees supposing that they had secured the land for several generations beyond hope of redemption at any future time, built substantial houses thereon, excavated tanks and made other kinds of improvements by spending large sums of money never dreaming for a moment that the future legislators would interfere with their rights or supposed rights in this way. The economic effect of this will be great unearned profit to the mortgagor and great undeserved loss to the innocent mortgagee. Besides, there is likely to be increase of crime involving breach of the peace. These are matters which, in the opinion of this Association, demand the serious attention of Government.

It is impossible for this Association to make an estimate of the landlords' loss of income owing to the abolition of the transfer fees, for the figures of the whole province are not known to them. From Statement XIV it appears that during the 8 years ending 1936-37, the total amount of fees realised was 36·74 lakhs. Making an allowance of 1·74 lakhs on account of forfeiture, and dividing the remainder 35 by 8 an average of 4·37 lakhs is arrived at.

This may be taken as the average annual loss to landholders.

N.B.—The statements referred to in the answers are the statements issued by the Land Revenue Commission with their Circular No. 3, dated the 19th December 1938.

Suggestions for the establishment of a Credit Bank for the Agriculturist Debtors and consequent amendment of Bengal Agricultural Debtors' Act, 1935.

A grave situation has arisen because of the operation of the Agricultural Debtors' Act. Agriculturists, in this country, require money to buy cattle, to purchase seedlings and even sometimes to procure their food. The instalments, howsoever easy, provided by the Board, shall not create capital for the debtor and shall not help him in procuring funds for seedling or cattle.

The agriculturists have lost all credit in the market, thanks to the provisions in the Bengal Agricultural Debtors' Act postponing repayment of new loans to the final satisfaction of the debts under the

award. They cannot get money from landlords or creditors nor do they get any article on credit from village shopkeepers.

The trades to which the agriculturists in the province were accustomed have been stopped. They often act as intermediaries in the purchase and sale of betel-nuts, paddy, jute, etc. These products were often sold in advance when the purchasers paid a portion of the purchase money in advance and the balance used to be paid after the sale by the purchaser of the produce. These purchasers are now held to be debtors within the Act and they easily place these debts before a Debt Settlement Board. The result has been that the profits arising from these trades have been lost to the agriculturists.

If these agriculturists are placed in such an intolerable state for a long period, it would mean their utter ruin. The Government is not helping these people with money or credit.

To add to the misery of the agriculturists, there have been floods this year almost throughout the province. The agriculturists are everywhere in a sad plight and the Act has created such a situation that they do not get any advances anywhere. To protect these raiyats from the embarrassing and peculiarly difficult situation Government will have to advance sufficient money, else they will fail to cultivate their lands, procure food for their family and the inevitable consequence will be violence attended with all sorts of inhuman activities. It may not be out of place to mention here the havoc and disaster caused by the great flood of 1283 B.S. corresponding to 1876 A.D. when the entire island of Dakshin Sahabazpur as also the southern part of the Bakarganj district and portions of Noakhali district went under 21 ft. of water and several thousands if not lakhs of people were estimated to have perished. Houses collapsed, crops and cattle were all washed away. With the subsidence of water the land appeared to be one vast waste. In those days there were no relief organisations such as the Ramkrishna Mission, Sankattran Samity, Bharat Seva Sangha, etc., nor did the Government make any advance save and except remission of half the cesses. The raiyats could not in those days sell their lands nor were their rights in lands saleable in execution of decrees other than decrees for rent. Jute was then almost unknown and the prices of commodities were very low. Even under such circumstances the landholders, the money-lenders and the agriculturists could help themselves out of these serious difficulties.

It is imperatively and urgently necessary to restore rural credit. This can be solved only by the establishment of such Banks in the different parts of the country as will undertake to advance long-term as also short-term loans to the cultivators.

Necessary legislation to start such Banks should at once be taken up. The following features are suggested:—

(*i*) The Bank should be of the nature of the Reserve Bank of India with a share capital of ten crores of rupees. The local Government should guarantee a minimum dividend of 2 per cent. per annum at the expiry of one full year, in order to attract shareholders.

(*ii*) The local Government shall place a sum of not less than fifteen crores of rupees as working capital.

(*iii*) The Bank shall have branches throughout the province.

(*iv*) The Bank shall be managed by a Board consisting of one Chairman and eight members who shall all be appointed by the local Government.

(*v*) The Chairman shall be a whole-time Officer of the Bank and shall get such remuneration as the local Government may determine.

(*vi*) The managers of the Branches shall be appointed by the Chairman of the Board of Directors. The managers shall be assisted by a local Board of not more than 5 members who shall be nominated by the local Government.

(*vii*) An agriculturist may have his debts settled by application under the provisions of the Agricultural Debtors' Act and the agriculturist may apply to the Bank for advance of such sum to cover his debts settled by the Debt Settlement Board.

(*viii*) The creditors shall get debentures of the Bank and the local Government shall guarantee 3 per cent. interest on such debentures which will be negotiable.

(*ix*) The interest on these debentures may be drawn from any of the branches of the Bank or from any treasury or sub-treasury of the Government.

(*x*) The debtor shall pay interest on advances at a rate not less than 4½ per cent. per annum and the principal at instalments to be settled by the Bank regard being had to—

(*a*) the number of members in the family,

(*b*) the quantity of lands in his possession, and

(*c*) any other occupation or mode of earning of the members of the debtor's family.

(*xi*) The Banks may make temporary advances to the agriculturists for meeting expenses for purchase of cattle, seedlings, etc., which will have to be repaid at the harvest season.

(*xii*) In case of default in the payment of any instalment due to the Bank, the Bank shall have the option to treat as if the entire unpaid amount has fallen due or may treat the amount of the instalment in arrear only in default and may proceed for its realisation under the provisions of the Public Demands Recovery Act as if it was an arrear of a Public Demand.

(*xiii*) The lands of an agriculturist will be mortgaged to the Bank and they shall not be saleable by the debtor till such time as the debts due to the Bank are cleared off.

(*xiv*) The agriculturist shall pay the rent due upon the lands in his possession regularly and in case the landlord puts the holding in arrears to sale, the Bank shall protect the property by paying the amount of landlord's dues and shall take over possession of the lands by a summary procedure to be prescribed by the local Government.

(*xv*) The local Government shall prescribe rules for the carrying out of the provisions and for the redeeming of Debentures by Banks year after year.

In the Presidency of Bombay, the local Government is providing for a Bank of a similar nature for the relief of the agriculturists and proposes to advance a sum of five crores of rupees to the Bank. It would not be difficult for the Bengal Government to advance 15 crores of rupees.

The conditions of Bengal peasantry are much above that of the Bombay peasants.

It is expected that the Bank will be able to pay 3 per cent. interest on the advances made by the local Government as also on the debentures issued to the creditors. In exceptional years of drought, etc., the local Government may have to make an advance to the Bank for payment of interest.

The establishment of such a Bank will relieve the Government of the necessity of taccavi advances or famine advances. This will also go a long way towards the solution of unemployment problems as thousands of persons will be provided by these Banks.

The clamour that one section is being benefited at the cost of the other should also vanish.

The debtors who do not now get money to meet temporary exigencies will be saved.

It is, therefore, earnestly and respectfully commended to the attention of the authorities for immediate translation into action. The

Bengal Agricultural Debtors' Act requires amendments which are also suggested in the annexure.

The suggested amendments should be immediately taken up even if the proposal for the establishment of the Bank cannot be soon materialised.

The Bengal Agricultural Debtors Act.

[*Amendments suggested.*]

1. In section 2, clause (8)(*iii*) after "bhag," put a comma in place of semi-colon and add—

"or any rent payable in kind or any decree passed in a suit for recovery of share of the produce of land as aforesaid or for recovery of rent payable in kind."

2. In section 8, clause (6) *add* at the end omitting the full stop—

"or of any debt not included in the application under sub-section (1) or sub-section (2) or in the further application under sub-section (5) of this section or in the statement of debt submitted under sub-section (1) of section 13."

3. *Add* a new clause (7) to section 8—

"The Board shall not entertain any application under sub-section (1) unless it is accompanied by a deposit of a sum equivalent to one year's rent in case the application includes a debt (including a decree) for arrears of rent and by a deposit of a sum equivalent to one-twentieth of his other debts."

4. In section 13, clause (1) *add* at the end of the proviso omitting the full stop—

"even though the period mentioned in the sub-section has expired but orders under sub-section (2) or sub-section (3) have not been passed."

5. In sub-section (3) of section 13 *omit* the words beginning from "shall dismiss" up to the end of the paragraph and *insert* in its place—

"May after satisfying itself that the special and general notice under sub-section (1) has been duly served, pass an order in writing declaring that the amount of debt due by the debtor to the creditor applicant on the date of such order shall, for the purposes of this Act, be deemed to be the amount stated in the application submitted by the creditor."

6. (1) *Add* a sub-clause (*iii*) to the proviso to sub-section (*i*) of section 19—

(*iii*) if it contemplates the reduction of the amount and the instalment payable under a compromise decree.

(2) *Insert* "or awards" after the word "award" in sub-section (2).

7. Omit the portion beginning from "may grant", etc., of the first paragraph of section 21 and the entire portion of the second paragraph and insert—

"may refer to the appellate officer appointed under the proviso to section 40 for orders or for grant by such appellate officer of a certificate in the prescribed form in respect of the debt to which the offer relates and on the grant of such certificate the creditor shall not be allowed, notwithstanding the provisions of any law for the time being in force, any decree in any suit for the recovery of such debt within five years from the date of signing of the certificates and in the suit, if any, after the expiry of five years no court shall allow any costs to the plaintiff in respect of such debt and any interest on debt in excess of simple interest at the rate of 6 per cent. per annum after the date of such certificate. And the period from the date of the application by the debtor before the Debt Settlement Board up to the expiry of five years from the date of signing of the certificate shall be excluded in computing the period of limitation in such a case. The court shall pass an instalment-decree having regard to the instalments allowed by the Debt Settlement Board to other creditors, if any, of the debtor and the decree shall be treated as if it were an award signed by the Debt Settlement Board."

8. Section 22—The whole section to be repealed.

9. In section 23, *omit* the words "or under section 22."

10. Section 24—The whole section to be repealed.

11. In section 25, sub-section (1), clause (*d*), *omit* the words "or section 22."

12. In section 25, sub-section (1), clause (*g*), *add* at the end—

"Such security shall take priority over every other debt, secured or unsecured, incurred by the debtor after the date of the application under sub-section (1) of section 8 or the date of furnishing statement under sub-section (1) of section 13."

13. In section 27 *omit* the words—

"or the debtor has been granted a certificate of discharge under sub-section (5), section 22."

14. *Delete* sub-clause (1) with the provision of section 28 and *insert* the following:—

(1) If by the date fixed the debtor fails to pay any amount payable under an award, the whole amount due under the award shall at once fall due and the same shall be recoverable as a public demand on application made, within 90 days, by the creditor to whom the amount is due.

Provided that no *ad valorem* court fees on the amount due under the award shall be payable by the creditor or shall be realisable from the debtor. Such fees on application as may be prescribed, shall be charged.

15. In section 28, sub-section (3), proviso, *omit* the words "if such debtor.....22." and "subject to the provisions of sub-section (4) of section 22 and section 24."

16. In section 28, sub-section (5), *omit* the words "under sub-section (2) of section 22 or."

17. In section 29, sub-section (1), *omit* the words "under sub-section (2) of section 22 or."

18. Omit the proviso to sub-section (5) of section 29.

19. Section 31, the whole section should be repealed.

20. In section 35, *omit* the clause (*iii*) and number the first portion as sub-section (1) and add a new sub-section:—

(2) Any debt incurred by a debtor after the date of an application under section 8 or of submission of statement under section 13 whether secured or unsecured, shall be held as subject to the security for the amount due under the award under section 25, clause (*g*).

21. In section 37 *add* at the end—

"The attachment under this section or the security contemplated by clause (*g*) of section 25, shall not operate as a bar to the sale of any property in execution of a decree or of a certificate under the Public Demands Recovery Act, 1913, for its own arrears of rent and the provisions of section 30 shall apply to such sale.

22. In section 40, sub-section (*b*), *add* the following proviso:—

"Provided that the High Court may, on the application of any party, made within 90 days of the order of the appellate officer, cancel, modify or vary the order or direct a rehearing of the appeal by the same or some other appellate officer or pass such other order or orders which the High Court may deem fit, if the High Court is satisfied that there has been a failure of justice.

23. The section 46 be repealed and the following be inserted:—

The local Government shall prescribe rules for the representation of any party in any proceeding before a board or appellate officer. There shall be no bar to the appearance of a legal practitioner as defined in the Legal Practitioners' Act, 1879.

24. In section 47, sub-section (1), *omit* the words "or sub-section (5) of section 22."

25. In section 55, sub-section (1), clause (*f*), *omit* the words from "of requisitions under.....to the end."

Notes on Suggested Amendments.

1. Rent in kind is realised almost invariably for religious or charitable purposes. In wakf properties, paddy-rents are reserved for charitable purposes. So also in debottar properties paddy-rents are utilised for offerings before Gods and Goddesses. This led to the abolition of section 40 of the Bengal Tenancy Act.

Though arrears of share of produce have been exempted, a decree based upon such arrears has been construed by several Boards to be a debt within the ambit of their jurisdiction. To remove the doubt, the last clause is proposed to be inserted.

2. This addition will make the position of these creditors, whose debts are not included in the application, clear.

3. It appears that debtors are using the provisions of the Act to the great disadvantage of the landlords. If current rents cannot be realised the tenure-holders will not be able to pay rent to the zamindars who in turn will default in the payment of revenue. The entire machinery for the realisation of revenue will be paralysed. In order to prove the bona fides of the debtor, he should be required to deposit at least one year's rent and one-twentieth of the amount of his debts.

4. In cases of hardship, the Boards may exercise their discretion to the benefit of the party in default.

5. The debtors seldom come before the Board on an application before the Board by a creditor. To remedy the defect in addition to the other penalties provided in the Act, the creditor should be entitled to get an award in his favour.

6. The compromise instalment decrees should not be further disturbed or dealt with.

7. The penalty provided for in section 21 seems to be very drastic. The proposed amendment tries to give a little relief though still providing adequate safeguards against unreasonable refusal to a fair offer.

8—9. There will be extreme difficulty in the actual working of the section. The debtor may possess lands under different tenancies and it would be extremely difficult to apportion the rents payable or to settle the three bighas to be kept reserved.

If the debtor be a sharer in the tenancy the difficulties will be still greater; there should be a partition amongst the several co-sharers in the tenancy and then a distribution of the rent payable. All these will be costly affairs and complications will be greatly enhanced.

11—13. As it is proposed to delete the entire section 22, it is necessary to delete the clause.

14. There is no justification for the entire award remaining in abeyance when the debtor makes default. The Act provides proper safeguards when the debtor fails to pay instalments for unforeseen reasons, e.g., a sudden drought or serious illness in the family of the debtor or erosion by the river.

As the Act provides a cheap speedy remedy, the debtors must not be saddled with further costs in the shape of court-fees.

15—18. These amendments are necessary owing to the deletion of section 22.

19. There seems no justification for the special treatment of co-operative societies.

20. The original sub-clause 35(*iii*) is calculated to impede the obtaining of loans by debtors in urgent cases.

21. The first charge of rent decrees has been explicitly maintained here.

22. The High Court has held that it has no jurisdiction to revise the orders by the appellate officers. This section attempts at removing the bar as there can be no authoritative decision unless the High Court be invested with jurisdiction.

23. Already a class of village muktears had come into existence before the Debt Settlement Boards. To remove this it is necessary that the bar to legal practitioners appearing should be removed.

24-25. This is consequent on the deletion of section 22.

Reply by the Bankura Landholders' Association.

Q. 1. This description may be safely said to be exhaustive and the zamindars and Government have mainly followed the principles embodied in this description. No right has been taken away from the raiyats; rather it has made the rights of raiyats over the land permanent.

Q. 2. In the beginning there might have been some such powers implied but at present, the zamindars have no right to exercise their power except the power given by the Tenancy Act as amended up to date.

Q. 3. If we look to the acreage that has been brought under cultivation by the landlords through their tenants whom they helped in the affair by encouraging the tenants to bring fallow lands under the plough, by allowing them free use of the land for the first few years, that is, claiming no rent for the first few years; and by granting permanent or mourasi mokarari right to such khudkasht raiyats, that is, those raiyats who cut away the shrubs and small trees and converted the land into an arable one, and by preparing tanks and bunds for irrigation at their own costs; and by granting many other concessions to the original raiyats, then it may safely be stated that the landlords did play a significant part in the economic development of the country. The second part of the question does not arise.

Q. 4. The zamindars since the Permanent Settlement, have been converted into so many rent collectors; they are never considered as the proprietors of the land. As before, the State is the proprietor of all lands and the zamindars and other landholders under the zamindars by subinfeudation, are nothing but rent collectors enjoying some profits in lieu of commission for the performance of this onerous responsibility and timely regular payment of revenue.

Q. 5. As regards the first contention, it is true. As regards the second contention, before the Permanent Settlement the tenants could not have any permanent right over the land because the ijaradars under the Government were only rent collectors under a contract for a stipulated period. As these ijaradars had no permanent right over the land, it stands to reason that the tenantry had no permanent right. Further, most of the tenants came in after the Permanent Settlement. Under the circumstances, it was not possible to bring the tenantry in the show as parties, but the tenantry has been given the advantage of the Permanent Settlement and so their not being parties does not effect their position in any way.

Q. 6. The question has been answered partly in our answer to question 1. The increase in acreage under cultivation is due to all the three causes mentioned.

Q. 7. As there is no statistics, it is difficult to ascribe what portion of the increase is due to the industry of the zamindars and what to that of the tenantry and what to enhancement of rent. But this might be safely said that even a few decades before, the interests of the landlords were not considered to be antagonistic to those of the tenants; they were almost one and the same. Communistic theories based on wrong values were not in the ascendant then. Whatever enhancement of rent might have been effected in the past, it cannot be denied that the Bengal tenantry still enjoy their lands on the average rent of Rs. 4 per acre, which is the lowest rent prevailing here or in any other province of India.

Q. 8. Our answers to the previous questions show that what was required of and expected from the zamindars has been mainly fulfilled, though individual cases of inconsideration towards the tenants might be stated by those who want to do away with the Permanent Settlement.

Q. 9. The zamindars, both Hindus and Muhammadans, have helped the tenantry and the public at large in getting education and some of them have helped them to come in touch with religion and to introduce virtue and piety amongst the tenantry. Some of the previous landlords tried to improve the health of the tenantry by starting hospitals and charitable dispensaries. The zamindars have, moreover, all along patronised home industries amongst the tenantry. The lure of the excellent amenities of the town life has made most of the big zamindars absentees from their zamindaris, which has proved a great rub on the way of their performing those duties which chiefly related to the well-being of the tenants as a whole. Though explicity no duties were imposed on the zamindars, implicitly they were entrusted with the welfare of the tenantry to some extent and the former zamindars did play their part in that field quite creditably.

Q. 10. Yes. It has proved beneficial to the province.

Q. 11. These criticisms seem to have been based on a very limited one-sided view of the thing, as our Association has already said that the rent payable by the raiyats is lower than the rent payable by the raiyats of other provinces. It can moreover be noticed that even in Bengal, the raiyats in the permanently settled estates pay less rent than is paid by the khas mahal raiyats, that the yield of the lands have increased and that the zamindars get if not eighty per cent. a heavy percentage of revenue, but when the Permanent Settlement was made, the zamindars were given only ten per cent. The increase is due to the proper management and industry of the zamindars and the tenants.

Q. 12. No.

Q. 13. We cannot fall in with the views on the following grounds:—

(1) The Permanent Settlement, if done away with, will create a sense of insecurity in the country and the faith in the sense of justice and equity of British Government in India, will vanish.

(2) The seventy five per cent. of the raiyati assets calculated to be Rs. 12 crores, will never come to the provincial coffers. Collection charges and other things will eat up a great portion of those assets. The Government officials and their myrmidons will prove to be more oppressive than the zamindars' agents who are generally local men.

No tax should be levied or assessed on agriculture on the following grounds:—

(1) The agriculturists of Bengal owing to divided holdings have been doing agriculture under great hardship and disadvantages. They are proverbially poor; scientific agriculture has not been propagated amongst them nor is it possible under the ignorance and illiteracy prevailing at present. Further, the unusually low price of agricultural produce has brought the agriculturists of Bengal to the verge of the crater and they seem to be the most hopeless and helpless lot of agriculturists under the sun. Unless the Government takes steps to improve the lot of the agriculturists, taxing agricultural income is out of the question. If the present Permanent Settlement be substituted by temporary settlement, the lot of the agriculturists cannot but be worse than what it is at present. The rent collectors under the temporary settlement shall have not the least interest in the welfare of the tenantry and the tenantry losing permanent interest in the land, will not be interested in the improvement of the land.

Q. 14. The question does not arise.

Q. 15. The question does not arise.

Q. 16. A dire revolution and a chaotic condition.

Q. 17. The question does not arise.

Q. 18. The question does not arise.

Q. 19. No. The khas mahal tenants do not enjoy any advantage over the permanently settled tenants, rather they suffer more disadvantages.

Q. 20. Though there is not explicit mention but practically it has encouraged subinfeudation. It has, in a way, improved the condition of the tenants.

Q. 21. Previously replied.

Q. 22. The question does not arise.

Q. 23. As far as can be guessed, the occupancy right was prevalent centuries ago, but at that time the payment of rent was not always by cash but by payment of the produce of land which used to vary from one-half to one-sixth.

Q. 24. This question involves a philosophic discussion on words and definition of the word "Proprietor" seems to be quite other than in which it is generally used.

Q. 25. The word "occupancy," if it be not distorted, should be confined to the actual occupiers of the land, otherwise the tillers of the land will be converted to so many slaves working in the fields and the agriculture of the province will immensely suffer.

Q. 26. As soon as a big tenant sublets a portion of his tenantry, he relinquishes his occupancy right for that portion and becomes a superior landlord for it. Only for that portion of the land which he cultivates, he remains an occupancy raiyat.

Q. 27. No. Non-agriculturist tenants should not be given occupancy right for that affects adversely the tillers of the soil.

Q. 29 & 30. The suggestion made, seems to be mainly correct.

Q. 31. It is different in different districts. The bargadars generally hold a few bighas of raiyati ancestral lands.

Q. 32. We consider that the right of occupancy should be extended to bargadars for that will increase the agricultural produce of the province.

Q. 33. It is not economically sound. It can be prevented to some extent if occupancy right be extended to bargadars.

Q. 34. That apprehension seems to be reasonable.

Q. 35. As the share depends upon the productive power of the soil, and the help rendered by the tenant to the bargadars in the shape of manure, seed, etc., we think that it will not be possible to fix the share by legislation.

Q. 36. Agricultural labourers are generally paid in kind and their services are required only during the agricultural process of sowing and harvesting and sometimes for interculture. The agricultural labourer's economic position is very uncertain; he does not find employment every day of the month, but that of the bargadars is more certain.

Q. 37. To some extent, the amendment is apprehended to lead to the transfer of raiyati lands to the non-agriculturists. The evil cannot

be completely prevented but we think that some sort of obstacle placed on transfer may prevent it to some extent.

Q. 38. In West Bengal, 20 standard bighas per plough are generally considered to be an economic holding.

Q. 39. Yes, all these have proved a great obstacle to the improvement of agriculture of the province.

Q. 40. Under the present law of inheritance, it is very difficult to devise any means to prevent subdivisions of holdings.

Q. 41. We would greatly desire the consolidation of holdings by exchange, purchase or by any other way with the help of the Law introduced with that object.

Q. 42. Those who try to do scientific farming, should be allowed to occupy upto 500 bighas in one plot but those who purchase only parts of divided holdings, should not be allowed to occupy more than 250 bighas. Lands accumulating to thousands of bighas as divided holdings in one hand, has proved detrimental to the proper agricultural production of the province.

Q. 43. As long as joint family system prevails, coparcenary is not so very detrimental as divided holdings.

Q. 44. A change in the law of inheritance, if possible.

Q. 45. Joint collection by the force of law by landlords, who are not on good terms, instead of bringing in any good, will bring in chaotic condition in the country.

Q. 52. Fair and equitable rent should be fixed on the first principle.

Q. 53. Yes, they differ as the rents were fixed as lump rents.

Q. 54 to 58. Most of lands will escape from paying tax or rent.

Q. 59. The fixation of rent in many cases seems to be defective due to want of reasonable procedure in fixing rents.

Q. 60. We think the increment due to fluvial action should be divided between the landlord and the tenants for both of them enjoy that benefit without any effort on their part.

Q. 61. Yes. Because rise and fall come alternately. If the landlords be given any benefit in the shape of increment in rent for rise in prices, it stands to reason that during a fall in prices, the tenants should be given a reduction in rent.

Q. 62. No such distinction should be made.

Q. 63. In that case we would not object. Yes, we are.

Q. 64. We consider this will be beneficial.

Q. 67. In most cases.

Q. 69. Yes.

Q. 70. It is in most cases due to different mentality of Government officials in different khas mahals.

Q. 71. That remission according to law is not given is partly due to the ignorance and helplessness of the raiyats and partly to delaying process of law.

Q. 72. 20 to 24 maunds of paddy per acre and the cost of production is 18 to 20 rupees. As regards sugar, 60 maunds of *gur* per acre and the cost of production is about Rs. 120.

Q. 73. Productivity of the land has diminished owing to continuous cultivation. The Government has, as far as we know, done very little for the improvement of agriculture and the productivity of the land.

Q. 74. Because the Government is not in possession of a flowing coffer to help the agriculturists with agricultural loan.

Q. 78. The average income of a family of a raiyat consisting of five heads seldom goes above Rs. 100 per annum. Most of the cultivating raiyats cannot maintain themselves without having recourse to borrowing money or paddy.

Q. 80. We endorse the suggestion made in the question.

Q. 81. We do not think so. The agriculturists in more populous countries in Europe and America are far better off due to the fact that scientific agriculture has been introduced in those countries.

Q. 82. No. Government factories are apprehended to be detrimental to the financial condition of the country and private industrial enterprise.

Q. 83. We think that for improving agricultural credit, the Government should improve the co-operative credit societies and open dharma golas in villages.

Q. 84. It is true and our suggestion is contained in the previous answer.

Q. 85. For various reasons the agriculturists have not taken to co-operative credit societies.

Q. 87. If it be done, such banks are expected to be of immense help to the agriculturists.

Q. 89. The present process is very costly to zamindars and harassing to the tenants. Some law should be prepared by the Legislature to remove these defects.

Q. 90. The Public Demands Recovery Act often puts the tenants to great trouble. Pressure be given to the tenants for regular payment of rent just after harvesting and not when their hands are empty.

Q. 91. We approve of the idea contained in the question.

Q. 93. It is too early to express any opinion on the amendment, but the abolition of the right of pre-emption by landlords is apprehended to decrease the income of the Government from stamps and strain feelings between the landlords and new purchasers causing tortuous litigation.

Reply by the Bengal Landholders' Association.

(Adapted mainly from the replies by Rai J. N. Sircar Bahadur, B.A., B.C.S., Retd.)

1. The description is not exhaustive. There were many other circumstances which made Permanent Settlement the only possible solution and an imperative necessity. The main grounds may be summarised as follows:—

(1) *The urgent necessity of securing a fixed permanent income to relieve the financial strain.*—The Company had to pay under the Dewani Altamgha 26 lakhs of rupees annually to the Emperor. Besides this they had to maintain an army and bear all the expenses of civil justice. They had further to contribute Rs. 53,00,000 towards the household expenditure and other expenses of the Nawab Nazim. "There were territorial payments in England which (during 1814-15 to 1828-29) amounted to £23,825,712, or an annual average of £1,588,381" (page 100 of Banerjea's "Indian Finance in the days of the Company, 1928" Macmillan & Co.). Money was also required for "investments". This was the name given to "a certain portion of the territorial revenue set apart every year to be employed in the purchase of goods for exportation to England" (page 24 ibid). Figures under this head from the year 1766 to 1780 are given below:—

Year.	Amount. £	Year.	Amount. £
1766 ..	437,511	1774 ..	648,867
1767 ..	565,461	1775 ..	932,837
1768 ..	658,338	1776 ..	788,623
1769 ..	742,286	1777 ..	1,082,233
1770 ..	663,665	1778 ..	1,266,224
1771 ..	768,458	1779 ..	1,082,453
1772 ..	865,878	1780 ..	1,254,958
1773 ..	632,572		

(Appendix No. 6 to the Ninth Report of the Select Committee, 1783.)

The conquest of other provinces and the unsettled conditions of the country required large sums. I may quote again from Mr. Banerjea:—

"Bengal's revenues as usual were more than sufficient to meet her expenditure. But year after year, she was called upon to meet the deficiencies of the other Presidencies and to finance most of the schemes of conquest" (pages 83-84 ibid).

Deficiencies of not only other provinces but of far distant countries had to be met:—

"This (the surplus in the years 1814-15 to 1828-29), of course, was exclusive of the expenses of the subordinate settlements of

Bencoolen, Prince of Wales's Island, Singapore and St. Helena. It would certainly strike an impartial observer as strange that, although India derived no benefit from these settlements, her revenues should have been called upon to meet the deficiency at all these places" (p. 100 ibid).

It is clear that financial embarrassments were very grave and steady receipt of the largest possible land revenue was an imperative and immediate necessity.

(2) *Failure of attempt at direct collections.*—Both the Moghul Government and the East India Company failed in their attempts at direct collection. Murshed Kuli Khan (Jaffar Khan) in 1722 tried to make direct collection by the hastabood method. He obtained a small increase by adopting the severest measures. Sir John Shore in paragraph 15 of his Minute, dated 18th June 1789, observed:— "Yet moderate as this addition (Total of Rs. 24,18,298 in 140 years since Todar Mal's assessment) may appear, that part of it imposed by Jaffar Khan, and amounting to Rs. 14,31,136 was obtained by the measures of the greatest severity; the zamindars, with few, if any, exceptions, were dispossessed of all management in the collections, and his own officers were employed to scrutinise the land and their produce. The severity employed upon renters in arrears, and upon the zamindars to compel them to a discovery of their resources, were disgraceful to humanity." The system was tried till 1725 and was found to be a complete failure. His successor Shuja Khan released the zamindars and restored most of them to the management of their lands and reverted to the old system. Sir John Shore proved conclusively that the figures of the Moghul assessment were unreliable and on that account probably excessive. He observed that "The balance of unpaid revenue at the end of the Bengali year 1168, answering to the period between April 1761 and 1762, is stated in the public accounts at Rs. 79,74,065." (Fifth Report, App. I, paragraph 47.) For subsequent years he gave detailed figures:—

Year.	Administrator.	Assessment. Sicca Rs.	Collection. Sicca Rs.	Balance. Sicca Rs.
1762-63 ..	Kasim Ali Khan (d) ..	2,41,18,912	65,60,992	2,55,31,986
1763-64 ..	Nandakumar Banerjee (e)	1,77,04,766	1,04,96,453(a)	1,00,86,358
1764-65 ..	Do. (e) ..	1,76,97,678	1,06,68,328(b)	95,22,145
1765-66 ..	Mahammad Reza Khan (e)	1,60,29,002	1,47,04,876(c)	13,24,135

(*vide* abstracts 5, 6 and 7 annexed to Sir John Shore's Minute in App. I to fifth Report).

*(a) Includes Rs. 2,05,046 collected after the end of the year.
(b) Do. 5,73,092 Do. Do.
(c) Do. 2,07,964 Do. Do.
(d) Inclusive of ceded districts.
(e) The figures are exclusive of ceded districts (24-Parganas, Burdwan, Chittagong and Midnapore).

At first attempt was made to collect through Mahammad Reza Khan, the Deputy or Naib Nazim. This was a failure and in 176

Supervisors were appointed for preparing rent rolls, examining titles and all matters connected with settlement of land revenue and revenue collections with a view to direct collection by the Company ignoring the zamindars. They were to work under 2 Councils of Revenue established at Patna and Murshidabad in 1770. This system also failed. On May 11, 1772 the Court of Directors issued a proclamation stating that the Company was determined to stand forth as Dewan, *i.e.*, to collect its own revenue and to administer the fiscal system itself. The post of Md. Reza Khan as Naib Dewan was abolished. Supervisors failed to prepare rent rolls and the Council decided that the 4 junior members should form a Committee of Circuit, and make settlements locally by auction for periods of 5 years irrespective of claims of zamindars. Thus the ijara (farming) system as opposed to zamindari system was adopted. This proved ruinous. The estates were knocked down to speculators at a revenue which, as the old zamindars knew the estates were unable to bear. The only hope of the farmers was to extort what they could and leave the estates ruined and deserted. Quinquennial settlement of Dacca Province amounted to over Rs. 38,00,000 against 19¼ lakhs in 1722 but the arrears averaged 8 lakhs per annum. Similar conditions prevailed in other districts. This effort resulted in the extinction of skilled, though corrupt collecting agency and the substitution of an untrained foreign agency (*vide* Ascoli's Early Revenue History of Bengal). When this system failed a controlling Committee of Revenue was formed at Calcutta (1773) with 6 subordinate Provincial Councils at Calcutta, Murshidabad, Patna, Dacca, Burdwan and Dinajpur. Collectors were abolished and amils were entrusted with the collection of the jama of previous year. The result was again unsuccessful. On 20th February 1781, a new system was introduced with 4 covenanted servants of the Company forming a Committee of Revenue, the Provincial Councils were dissolved the Collectors were restored, the post of Superintendent of Khalsa was abolished and the Canoongoes were restored. When all the systems had failed, Barwell on March 28, 1775 and Francis on January 22, 1776 advocated settlement with zamindars. Warren Hastings concurred. The Permanent Settlement with zamindars was therefore not because it was intended to show any special favour to the zamindars but inasmuch as all other systems had failed. The main object was to place the revenue collection on a stable basis, through this agency and to secure an assured income of Rs. 2,60,00,000 from the 3 provinces of Bengal, Bihar and Orissa. The net result of the Decennial Settlement is thus recorded in the Fifth Report (p. 18):—

"The whole amount of Land Revenue, by these means, and by this agency, obtained from the provinces of Bengal, Bihar and Orissa,

ultimately proved for the year 1197, corresponding with the year 1790-91 to Sicca Rs. 2,68,00,989 or £ Sterling 3,108,915."

(3) *To reduce cost of collection of revenue.*—The experiment made at different systems enumerated in (2) above showed that in order to make direct raiyatwari collection practicable, it was essential to prepare record of rights of all classes of persons holding lands which would have involved enormous expense and a trained and experienced agency which was totally lacking. To give an idea of the amount necessary for doing this kind of work, the cost actually incurred in preparing records of rights in the course of district settlements undertaken in recent times are given below of certain districts:—

	Rs.
Bankura ...	25,03,000
Midnapore ...	45,53,000
Jessore ...	28,89,000
Khulna ...	8,26,000
Faridpore ...	21,28,000
Dacca ...	26,54,000
Mymensingh ...	59,12,000
Rajshahi ...	25,69,000
Tippera ...	22,53,000
Noakhali ...	12,93,000

Generally the cost rate was about Rs. 950 to Rs. 1,000 per sq. mile. In the then state of the finances it would have been impossible to launch such a vast and expensive scheme. It would have moreover taken a long period to complete such an operation and the lack of a trained agency made the idea wholly impracticable. In direct raiyatwari collection it would have been necessary to grant remissions and abatements in cases of loss through drought, excessive rainfall, diluvion, etc., which would have affected the income. Besides this, expenses would have been necessary for works of improvement such as embankments, irrigation works, etc. In farming too, if it was intended to protect the tenants, preparation of record of rights would have been essential and above this an expensive agency would have been necessary for the periodical revision of assessment. The zamindari system was, therefore, the cheapest and had the prospect of securing an assured steady income. Practical experience has amply justified the anticipations of the framers of the Permanent Settlement. Statistics have been given in reply to question 5 to prove that in khas mahals there are always heavy arrears and percentages of collection in khas mahals are much lower than in permanently settled estates.

(4) *To encourage extension of cultivation and improvement.*—The famines of 1770-71, 1784, 1786 and 1787 had carried off more than 1/3rd of the population and the same proportion of cultivated land had been converted in jungles haunted by ferocious wild beasts. In order to bring such a large area under cultivation organised action was necessary. Expensive irrigation works and embankments were necessary for this and in the absence of a suitable State agency for such works, the zamindars were the most proper persons who could be expected to undertake them. It was incumbent on them to do so as the assessment at the Permanent Settlement was an advance assessment and their only hope of saving their estates, was by increase of income by extension of cultivation. In his letter dated 6-3-1793 to the Court of Directors, Lord Cornwallis observed that "It is the expectation of bringing them (the extensive waste and jungle lands) into cultivation and reaping profits of them, that has induced many (of the zamindars) to agree to a decennial jama which has been assessed upon their lands." Any attempt by a zamindar at raising the rates of rent beyond the pargana rates was not only prohibited but was impossible with the extremely low margin of profits of the tenant in those days. The price of paddy was As. 8 per maund and the tenant could hardly have more than Rs. 6 per bigha—(3·025 bighas=1 acre) for his land. Attempt at extortion of high rates would have made him migrate, a possibility which the zamindar was anxious to avoid. It is well known that in his eagerness to secure tenants, he had recourse sometimes to abduction. Had there been any illegal exactions on a large scale, so many zamindars would not have been ruined immediately after the Permanent Settlement. For the sake of his existence, he had to strain every nerve to extend cultivation. There was no other agency with such an impelling force behind it to extend cultivation.

(5) *Necessity of securing loyalty on political grounds.*—Unrest prevailed both in Europe and America and in India also the conditions were very unsettled.

The following extract from the Minute of Lord Cornwallis dated 3-2-1790 shows clearly how this factor influenced him:—

"In case of a foreign invasion it is a matter of the last importance, considering the means by which we keep possession of this country that the proprietors of land (meaning the zamindars, polygars, taluqdars, etc.) should be attached to us for motives of self-interest. A landholder who is secured in the quiet enjoyment of a profitable estate can have no motive for wishing for a change. On the contrary, if the rent of his lands is raised in proportion of their improvement, if he is liable to be dispossessed should he refuse

to pay the increase required of him or if threatened with imprisonment or confiscation of his property on account of balances due to Government, upon an assessment which his lands were unequal to pay, he will readily listen to any offers which are likely to bring a change that cannot place them in a worse situation but which held out to him hopes of a better".

(6) *Ultimate individual wealth, rather than immediate State gain, more profitable through improvement of trade and commerce.*—As direct raiyatwari collection was found impracticable, the only alternative to a Permanent Settlement was temporary settlement. The latter would have resulted in a continual state of uncertainty with demeaning hagglings at the periodical reassessments. In the absence of any record of rights or any reliable data the tendency at the periodical revisions of assessment would have been to squeeze out as much as possible without any idea as to what burden the lands were capable of bearing. It was necessary to create a peaceful atmosphere to afford facility to the people to recover from the disastrous effects of famine and pestilence and semi-anarchy of the preceding half century. Peace and tranquillity alone could make trade and commerce flourish and these are the mainstay of any Government and had special attraction for a Government carried on by a trading company. It was, therefore, of greater importance to direct attention to the improvement of these than to quick profit which would have retarded progress towards the main goal. It was therefore a very sound policy and the following extracts from Lord Cornwallis's letter very forcibly express it:—

"A Permanent Settlement which alone in my judgment, can make the country flourish, and secure happiness to the body of inhabitants.

As I have a clear conviction in my own mind of the utility of the system, I think it a duty I owe to them, to my country and to humanity, to recommend it most earnestly to the Court of Directors, to lose no time in.....not to postpone for ten years the commencement of the prosperity and solid improvement of the country."

The Court of Directors also said this in plain language. Their observations are reproduced in paragraph 10 of Appendix No. 18 to the Fifth Report (*vide* page 172 Vol. III Firminger's Edition of Fifth Report):—

"10. We quote for your information the following observations of the Court of Directors, on a permanent settlement applied to Bengal, viz., "we find it convincingly argued, that a permanent assessment, upon the scale of the present ability of the country, must contain in its nature, a productive principle; that the possession of property, and the sure enjoyment of benfits derivable from it,

will awaken and stimulate industry, promote agriculture, extend improvement, establish credit, and augment the general wealth and prosperity. Hence arises the best security, that no permanent diminution can be expected to take place, at least to any considerable amount ..... There will thus be a gradual accumulation, while the demands of Government continue the same; and in every step of this progressive work property becomes of more value, the owner of more importance; and the system acquires additional strength,—such surely appears to be the tendency and just consequences of an equitable fixed assessment."

(7) *To free Collectors for devoting time to general administration.*—Up to the Permanent Settlement, the time of the Collectors had been monopolised by revenue settlement and collections and constant applications for abatements and remissions of revenue and very little had been done towards improvement of the general administration, including administration of justice, maintenance of law and order, regulation of ports, customs, consolidation of newly acquired territories, etc.

(8) *The creation of a body of landlords whose interests are naturally bound up with the welfare of the land.*

(9) *The ancient origin of the zamindari system which was well understood by the people.*

(10) *To disarm opposition to the appropriation of excise and other internal duties by Government.*—The zamindar had the right to all excise revenue including license fee for excise shops and also to duties on raw silk, betel leaves, etc., and salt. It was notified by an advertisement on the 11th of June, 1790 that (with an exception of tax on tenements which appeared derivable from land thus occupied) the management and collection of sayer revenue would in future be separated from the zamindari charge and placed under the authority of officers to be appointed directly on the part of Government.

The description of duties mentioned in the question is not exhaustive. They included the following:—

(*a*) *Police duties.*—Such as apprehension of thieves and maintenance of law and order. They used to maintain a police force (thanadari) and a body of village watchmen. It is stated in the 5th report that Burdwan had to maintain 2,400 armed constables and 1,900 zamindari paiks. They were relieved of their police duties and directed to discharge their police establishment by Regulation XII of 1793.

(*b*) Jurisdiction over petty civil court suits.

(*c*) There was a special class of zamindars called ghatwalls whose duty it was to guard the ghats or passes in the western frontier of the province and who had to maintain armed forces for the purpose.

(*d*) Maintenance of records to a cetain extent.

(*e*) Supply of rations to Government officers on tour and army on the march.

(*f*) Maintenance of village accounts of each tenant and statistics of cultivated lands under different crops.

(*g*) Works of improvement such as excavation of tanks, wells, etc., and maintenance of all irrigation works and embankments.

In many districts specially in the barind area as well as in Burdwan, etc., innumerable irrigation tanks, some of which were of very large size and are called dighis, are still to be found though almost all are now silted up and the beds of many are at present under cultivation. It was not possible for individual tenants to construct embankments and irrigation channels and the zamindar had to undertake these.

(*h*) Reclamation of jungle by granting lease on favourable terms sometimes through people like Santals from other provinces who had special aptitude for such work.

(*i*) Maintenance of places of worship like temples, mosques by rent free grants, and religious and charitable institutions. Sir John Shore in paragraph 311 of his Minute, dated 18th June 1789, observed that "In the list of zamindari charges there will be found charitable donations, which ought properly to be paid by officers of the Government."

(*j*) The Permanent Settlement did not take away any existing rights of the tenant. The position of the raiyat was, on the other hand, defined and strengthened. The avowed object of Lord Cornwallis was to protect the tenants (*vide* his Minute, dated February 1790) and in Regulation I of 1793 this was emphasised. The object has been kept in view by the Government in all subsequent tenancy legislations. For an analysis of the classes of raiyats and their rights and of the measures adopted in the period of the Diwani for their protection, please see the judgment in the great Rent Case.

Sir John Shore in his minute, dated 18th June 1789, after prolonged investigations recorded his findings about the rights and privileges of raiyats existing at the time and a comparison with these will clearly show that the Permanent Settlement did not take away any of their rights; on the contrary, confirmed them and laid down measures for preventing infringements of them. Extracts from his minute are quoted below:—

"389. It is, however, generally understood, that the raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed; but this right does not authorise them to sell or mortgage it, and it is so far distant from a right of property.

This, like all other rights, under a despotic or varying form of government, is precarious. The zamindars, when an increase is forced upon them, have exercised the right of demanding it from their raiyats: If we admit the property of the soil to be solely vested in the zamindars, we must exclude any acknowledgment of such rights in favour of the raiyats, except where they may acquire it, from the proprietor."

* * * * *

"406. Pottas to the Khode Khost raiyats, or those who cultivate the land of the village where they reside, are generally given, without any limitation of period; and express that they are to hold the lands, paying rents from year to year. Hence the right of occupancy originates; and it is equally understood as a prescriptive law, that the raiyats who hold by this tenure, cannot relinquish any part of the lands in their possession, or change the species of cultivation, without a forfeiture of the right of occupancy, which is rarely insisted upon; and the zamindars demand and exact the difference. I understand also, that this right of occupancy is admitted to extend to the heirs of those who enjoy it."

* * * * *

"407. Pykaust raiyats, or those who cultivate the lands of villages where they do not reside, hold their lands upon a more indefinite tenure. The pottas to them, are generally granted with a limitation in point of time: where they deem the terms unfavourable, they repair to some other spot."

Q. 2. The Permanent Settlement did not convey any new power to the zamindar, on the other hand it curtailed much of his powers, such as judicial, police, etc., and also by imposing restrictions on his power over tenants. It merely confirmed some of the rights he had. They were:—

(1) Khudkasht tenants had practically occupancy rights and could not be evicted, so long as they continued to pay their rent. So far as they were concerned, the zamindars had no choice but as transfers were not permitted without the zamindar's consent he had the right of selection of transferees.

(2) As regards Paikasht or non-resident tenants, they were mere tenants-at-will and the zamindar had a free hand in selecting them. The principal point in selection was the economic interest, *i.e.*, the cultivation of the land to best advantage and also elimination of bad characters and selection would naturally fall on actual cultivators.

(3) As regards new settlements he had an entirely free hand and selection was no doubt by the consideration mentioned in (2) above.

Vide Section LII of Regulation VIII of 1793 extract from which is quoted below:—

"The Zamindar, or other actual proprietor of land, is to let the remaining lands of his zamindary or estate, under the prescribed restrictions, in whatever manner he may think proper..." With the object of extending cultivation, various classes of middlemen were created. As mentioned in the beginning, no new powers over the tenants were conferred by the Permanent Settlement but it restricted them considerably with a view to protect the tenantry. For a summary of the then existing rights of the raiyats, the extracts quoted from Sir John Shore's Minute in answer to question 5 may be seen. The justification for imposing the restrictions after confirming his proprietary title are thus explained by Lord Cornwallis in his Minute dated February, 1790 (para. 2).

"If Mr. Shore means that after declaring zamindars proprietors of the soil, in order to be consistent we have no right to prevent his new abwabs or taxes on the lands in cultivation, I must differ with him in opinion, unless we suppose the raiyats to be absolute slaves of the zamindars. Every bigha of land possessed by them must have been cultivated by them under express or implied agreements that a certain sum should be paid for each bigha of produce and no more. Every abwab or tax imposed by the zamindar over and above that sum is not only a breach of the agreement, but a direct violation of the laws of the country. The cultivator, therefore, has in such cases an undoubted right to apply to Government for the protection of his property, and Government is all times bound to afford him redress."

This view was embodied in section 8 of Regulation II of 1793 and the main object of all subsequent tenancy legislation was this.

There can be no economic development without State aid. There were no organised industries like jute, silk manufacture and textiles generally, lac, salt, sugar, tobacco, etc., and the growers and manufacturers were ruthlessly exploited by the merchants and the zamindars were helpless and could afford no protection in this matter to his tenants. Whenever any new industry was started by foreign capital, the interest of the capitalist became the sole concern of the State. The indigo industry affords the best example of this. The cultivators were like slaves and had no interest in the profits. They were compelled to grow indigo on any plot pointed out by the planter and on failure they were oppressed and tortured with impunity. They were obliged to receive payment at rates dictated by the capitalist. Development of tea industry in Assam is another example of a similar nature. Development of jute industry is of more recent origin, when public opinion had gained in strength, and

there have been no gross abuses like those in connection with indigo and tea but the grower is still exploited by a ring of capitalists and the zamindar is a helpless spectator. In the early days, facilities for education were lacking and the zamindars were ill educated and had little knowledge of the possibilities of economic development nor did they receive any help or inspiration from Government. They did what they could and helped very largely in the growth of educational institutions but these could not yield immediate results. Their sole anxiety was to pay revenue punctually, to save themselves. In the absence of encouragement from the State the cottage industries like spinning and the manufacture of fine muslins and other textiles, manufacture of salt, etc., gradually became extinct. It is the function of the State to develop the resources but here there was no attempt in this direction and in some cases the attitude of Government was openly hostile and the machinery of the State was employed to extinguish industries like salt, spinning and weaving, etc., by direct action and also by indirect tariff walls. The interests of a foreign Government representing trade and not responsible to the people, and those of the masses were antagonistic and the zamindar was powerless to interfere. They were moreover at that time extremely poor as has been recorded by Sir John Shore in his Minute of 18th June 1789.

"129. Secondly, it is a certain fact, that the zamindars were almost universally poor. This assertion, if doubted, may be enquired into with respect to the zamindars of Rajeshahy, Beerbhoom, Jessore, Nuddea, Dinajepoor, and Salsyka; to whom I do not mean to restrict it. Justice and humanity call for the declaration, in opposition to insinuations of another tendency, and to positive assertions of a Member of the Board of Revenue, that the zamindars are wallowing in wealth and luxury."

A few more extracts from his minutes are given below to show why there was no economic development in the early days:—

"131. The Company are merchants as well as sovereigns of the country. In the former capacity they engross the trade; whilst in the latter they appropriate the revenue.

* * * * *

"Whatever allowances we may make for the increased industry of the subjects of the State, owing to the enhanced demand for the produce of it (supposing the demand to be enhanced) there is reason to conclude, that the benfits are more than counter-balanced, by evils inseparable from the system of remote foreign domination.

* * * * *

"Upon the whole, I have no hesitation in concluding, that since the Company's acquisition of the Diwani, the current specie of the country has been greatly diminished in quantity, that the old demands of importation, by which the drains were formerly replenished, are now in a great measure closed; and that the necessity of supplying China, Madras and Bombay, with money, as well as the exportation of it by Europeans to England will contribute still further to exhaust the country of its silver.

* * * * *

"It is obvious to any observer, that the specie of the country is much diminished: and I consider this as a radical evil, which, without some unforeseen changes, will progressively operate to affect the British interest in Bengal."

In addition to the extracts from "Indian Finance in the days of the Company" by Mr. P. N. Banerjea, M.A. (Cal.), D.Sc., Econ. (Lond.), quoted in reply to Q. 1, I am quoting below a few more extracts from the same book. Mr. Benerjea was the Minto Professor of Economics of the Calcutta University and made extensive researches among the old records:—

"But the most serious evil of the system was the application of the revenues of the country to the objects of trade" (p. 24).

"The provisions of investment led to another evil, namely, the shortage of currency." (p. 27).

For an explanation of "investments" and the figures of actual expenditure under this head please see answer to Q. 1.

Public debts rose to £30,876,788 by 1809 and "the largest portion of the debt was raised in Bengal". (p. 114 ibid).

"The main cause of the growth of the Public Debt in India was war." (p. 120).

"It is to be presumed that a part of the loans of Bengal must have been raised in aid of the wants of Bombay and Madras." (pp. 114-115).

Q. 3.—Economic development in any country is impossible without State aid. When the Company took over the Dewani, there was semi-anarchy and it took a long time to evolve some sort of orderly Government. All the big zamindaris were broken up and the big zamindars were ruined and reduced to beggary as a result of the Permanent Settlement in 1793. Sir John Shore found that the zamindars were very poor (*vide* extracts quoted in answer to last question) and also that the country was being drained of its specie and the sources of replenishment were closed as the Company

as merchants was engrossing the trade and as Sovereigns appropriating the revenue (*vide* extracts from his Minute of 18th June 1789 quoted in answer to previous question). It took nearly 40 years for things to settle down under a new set of zamindars who were purchasers for full value. There were no facilities for education and the tenants as well as the zamindars were mostly illiterate and the Government of the time was too preoccupied with consolidating their position, expanding trade and commerce and sending remittances regularly to the Directors at Home and had no time nor the inclination to mind about education, etc. Moreover, after meeting the cost of general administration and military expenses and Home remittances there was nothing left for nation-building activities. In fact no attention was paid to such subjects at all. Government was on behalf of a foreign Company whose main consideration was to secure the largest amount of dividend. It was necessary, therefore, to develop their own trade and commerce and secure monopolies at the expense of the helpless and voiceless conquered subjects. There was no attempt at fostering the growth of trade, commerce, industries, arts and crafts of the country in the interests of the subject people. On the contrary many of these were systematically stifled and killed. It is impossible to give a full description of the state of affairs at the time and to get a complete picture the books of Mr. R. C. Dutt, I.C.S., or any impartial history of the period may be read. I may quote a few examples to illustrate what has been said. Take mercantile marine on which trade and commerce and the prosperity of a country depends. It was in the crude and infant stage and the first care of a Government in the interest of the country would have been to develop it to meet modern requirements. It was not done and the fleet of foreign merchantmen took the place of the country boats. Then take the textile industry. Bengal was famous for its muslin and silk and embroideries on silk and the rich kimkhabs. The mass of the people used to wear homespun cloths. All these industries were extinguished. Then again take salt manufacture. Mr. Grant estimated that along the 300 miles of sea coast from Jellasore West to Chittagong, comprehending at least 7,000 sq. miles, there were kollaries each yielding 233 maunds, *i.e.*, a total of 28 lakhs of maunds and a net new revenue of 13·65 lakhs of rupees. During the 3 years preceding the arrival of Lord Cornwallis "the net advantage to the Company, from this (abolition of monopoly) and improved sale, has risen to Sicca Rs. 11,725,700 or £ Sterling 1,360,180 on an average of the last 3 years." (Fifth Report p. 23.) Mr. Ascoli in his Early Revenue History of Bengal records that by 1873 manufacture of salt in Bengal ceased entirely. After taking over the salt revenue from the zamindars the Company created a monopoly. Firminger in his introduction to the First Volume of the Fifth Report observed

"the existing contracts for salt had, in Francis's opinion, led to the depopulation of the salt districts, and what had been gained by a monopoly, itself contrary to the Company's instructions (Nov. 20, 1767), was lost by the injury done to agriculture". In jute the entire trade is controlled by a ring of foreign capitalists and the cultivator never gets fair value for his crops and some portion of the profits is absorbed by middlemen and the bulk of it goes to the capitalist. All these industries like salt, textile, etc., disappeared and the people were accustomed to cloth imported from Manchester. Thus on the one hand some sources of income of the people were gone and new needs were created and he had to incur expenses to clothe himself and the money so spent went out of the country. Indigo manufacture was started by foreign capital and the cultivators who had to grow the plants were like slaves. They were compelled to grow it on any plot pointed by the planter and he had to receive payment at rates dictated by him. For any failure they were harassed and even tortured. The profits went out of the country. Tea cultivation also had a somewhat similar history and abductions of men, women and children from Bengal for supplying labour force for the Assam gardens became common occurrence. In reply to questions 1 and 2, extracts have been quoted to show how the country was being drained of its silver. In circumstances like these it was impossible for a zamindar to do anything worth the name towards economic development. Moreover, what was his position? For a long time after the Permanent Settlement, the highest among them was liable to be put to the greatest indignities. Burke's speech at the impeachment of Warren Hastings contains blood curdling accounts of the atrocities performed on them. The severity of these gradually decreased but the long period over which they extended left its impress and firmly instilled the slave mentality. He was shorn of all his former powers and glory. During the Moghul regime, he was deprived of his military and during the Dewani by the Company, of his police and judicial functions and in relation to his tenants also various restrictions were imposed on his former powers over him. When the country was being drained of its wealth (*vide* extracts quoted in answer to last question) on such a large scale and the people were being impoverished by being deprived of their sources of wealth and by having to purchase articles which formerly they could manufacture themselves at little or no expense, it is idle to expect any substantial economic development or prosperity. In the early days the zamindar never got a chance. The utmost he could do was to dig a tank here or erect a temple there and take measures for helping cultivation by protective and irrigation works. It was not till the introduction of the Constitutional Reforms that he had some hand in the affairs of his country and by that time education

also had spread to some extent and public opinion was growing and since then progress has been rapid.

As regards the second part of the question, it may be pointed out that the main functions of the zamindar were punctual payment of revenue, keeping of correct accounts and granting proper receipts, extension of cultivation, undertaking works of improvement and works for helping cultivation, etc. So far as these are concerned, there has been no failure. Embankments and irrigation works as well as clearance of jungles on a large scale required capital which the tenant lacked and all such works were undertaken by the zamindar. There are numerous irrigation tanks to be found in many districts which are still the property of the zamindar but in which the tenants have the right of irrigation. In many districts, tenures almost as big as an ordinary zamindari were created to hasten reclamation. This was done in cases the zamindar himself lacked the capital and the necessary agency. All this was done by the new set of zamindars who took the place of the ancient zamindars ruined by the Permanent Settlement. Nothing could be done during the unsettled condition immediately following the Permanent Settlement. Some extracts from the Fifth Report are quoted below to show the state of affairs immediately following the Permanent Settlement and which will explain why it was not possible for the zamindars to do anything during that period.

An extract from a letter from the Collector of Midnapore, dated 12th February 1802, quoted in the Fifth Report (p. 59):—

"It has been found by melancholy experience, that the system of sales and attachments, which has been substituted for it, has, in the course of a very few years, reduced most of the great zamindars in Bengal to distress and beggary, and produced a greater change in the landed property of Bengal than has perhaps ever happened in the same space of time in any age or country, by the mere effect of internal Regulations....."

A reason for this is given a little further down in the same letter:—

".....and it required little discernment to see, that they (the zamindars) had not the same powers over their tenants, which Government exercised over them. It was notorious, that many of them had large arrears of rent due to them, which they were utterly unable to recover; while Government was selling their lands for arrears of assessment....., farmers and intermediate tenants were till lately, able to withhold their rents with impunity, and to set the authority of their landlords at defiance."

After quoting from the letter of the Collector of Midnapore the Committe observed:—

"The Committee conceives it has now been shown, that the great transfer of landed property, by public sale and the dispossession of zamindars, which were observed to take place in an extreme degree, during several years after the conclusion of the Permanent Settlement of the land revenue, cannot be altogether ascribed to the profligacy, extravagance, and mismanagement of the landholders; but have to a certain extent, followed, as the unavoidable consequences of defects in the public regulations combined with inequality in the assessment, and with the difficulties, obstructions and delays with which the many nice distinctions and complex provisions of the new code of regulations were brought into operation, among the very numerous, but for the greater part, illiterate inhabitants of the Company's provinces, who were required to observe them." (p. 59 Fifth Report).

The fact is also mentioned in para. II of the letter of the Court of Directors, dated 15th January 1819, an extract from which is reproduced below:—

"When we bear in mind the fact stated by Mr. Roche in his Minute recorded on your revenue consultations of the 12th August 1815 that subsequently to the period of the Permanent Settlement "probably one-third, or rather half, of the landed property in the province of Bengal may have been transferred by public sale on account of arrears of revenue, etc....."

When it was humanly possible, revenue was paid punctually and after the unsettled period of transition was over, irregularities or defaults were rare. The object was attained after all the big zamindars had been ruined and reduced to beggary. The statement annexed in reply to questions 10 and 11 will show how high the percentage of collection nowadays is in permanently settled estate in comparison with the temporarily settled estates.

Q. 4. The original zamindars were the descendants of Rajas who were the proprietors of the soil. Sir John Shore in his Minute, dated 18th June 1789, (para. 374), observed:—"Formerly their services were required for the defence of the State against rebellion or invasion, when they possessed the means of furnishing this assistance. This obligation was principally upon the principal zamindars; but was binding upon all." It will be seen that even in the times of the Mahabharat the principle of proprietary

right and actual possession of the Raja was well recognised and the Emperor of All India only realised tribute from him. Whoever wanted to be the Emperor over all the Rajas and potentates of Bharatbarsha had to perform the Aswamedh Jajna or horse sacrifice and a preliminary condition was that he should first of all subjugate the hosts of Rajas all over India and he had to do it systematically in all the directions of the compass. In the detailed description given in the Mahabharat of the Aswamedh Jajna performed by the five Pandavas, it will be found that 4 of the brothers proceeded in 4 directions North, East, South and West and methodically subjugated every Raja in the direction allotted to him. The conquest of the eastern countries was allotted to Bhim Sen and he penetrated as far as the Orissa coast and in the north-east up to the Brahmaputra river which is specifically mentioned. He conquered the Mlechhas or aboriginals who inhabited the sea coast and the Kings of Tamralipta (Tamluk), Karbat, Sumbha, etc., and also the country bounded by the Brahmaputra and exacted tributes from all the kingdoms but did not disturb the possession of any of the kings. There was no annexation and each Raja was left in possession of his kingdom provided he paid a tribute. Some did it immediately on the approach of the Pandavas without a fight whereas some resisted and fought sanguinary battles and were overcome and tribute was forcibly realised but even these were left in undisturbed possession of their lands. There is a description of those who submitted without a fight and those who had to be conquered in battle and generally descriptions are given of the tributes paid or exacted from each. The title of the Raja was never disturbed. The Pathan Emperors found the zamindars and so did the Moghul Emperors and the English after them. (*Vide* extracts of para. 370 of Sir John Shore's note of 18th June 1789 quoted in the last two paras. of this answer.) What the Moghul Emperors did was to deprive them of their military powers and they were not allowed to repair their fortresses but they were not disturbed so long as they paid the State dues regularly. Those who opposed the Moghuls were defeated in battles and deprived of their zamindaris and their lands were distributed in jaigirs for the maintenance of the army and civil and military officers. It is in record that on many occasions zamindaris were purchased by the Emperors for the creation of jaigirs and also whenever a loyal zamindar was deprived of his zamindari, a malikana or proprietary allowance was given to him. This practice has been continued by the British Government. It is not a new principle introduced by the British but confirmation of the custom they found in vogue. The tenants derived their interests from the zamindars and were not the proprietors. The only class of tenants who had some stability were the khudkasht kudeemee raiyat.

In the great Rent Case (Thakurani Dasi *vs.* Bisheswar Mukherjee) Thevor J. observed as follows:—

"But when Regulation XI of 1822 was passed, the use in section 32 of that law of the term khoodkast kudeemee raiyat, or resident and hereditary raiyat with a prescriptive right of occupancy, to designate the cultivator who was not liable to eviction on a sale for arrears of revenues....."

Thus whatever rights the best class of raiyats, *i.e.*, the khudkasht kudeemee raiyat, acquired was derived from the zamindars and he had a prescriptive right (*vide* paras. 389, 406, 407 of Sir John Shore's Minute, dated 18th June 1789 reproduced in answer to question I) but the mass of raiyats had no right at all and were constantly evicted. In para. II of the letter of the Court of Directors, dated 15th January 1819, it was observed that Mr. Roche's Minute of 12th August 1815, showed that probably one-third or rather one-half of the landed properties in the Province of Bengal, may have been transferred by public sale on account of arrears of revenue and for this fact "we can readily perceive how prodigiously numerous must have been the instances in which engagements between zamindars and raiyats where annulled." The majority of the present body of the tenants are therefore of fairly recent origin and neither they nor the older class created by the zamindars can have any claim to proprietary right. Even if it be conceded for the sake of argument that the zamindars had no valid proprietary title at the inception, some thousands of years back, they had no doubt acquired a prescriptive right in the long era when dynasty after dynasty came and went. (*Vide* paras. 370 and 371, of Sir John Shore's Minute, dated 18th June 1789, reproduced in the last two paragraphs of this answer.) They were recognised by every one of them except for a brief spell of 3 years of Murshid Kuli Khan's regime (1722-25 A.D.) who tried to do without them. His successor Shah Suja restored the old order. In a Privy Council case (Free-mason *vs.* Fairlie I.M.I.A. 305 at page 341) the Lord Chancellor observed as follows:—

"I think it is impossible to read these articles, which were prepared obviously with great caution and consideration by persons well acquainted with the subject, and possessing every means of obtaining most accurate information on it, and as far back as 1793, without coming to the conclusion that the zamindars and talukdars were owners of the soil."

In the Fifth Report there is a clear record of the fact that the zamindars in Bengal used to exercise the rights of a proprietor and differed from the zamindars of Bihar. After dealing with the province of Bihar, where the practice was for the State to receive the

entire produce of the land and to give shares out of it to the zamindar, the tenant and the collecting agency, the conditions in Bengal are described in the following words:—

"The difficulty was increased by a difference which had originally prevailed in the mode of forming the assessment of Bengal from what has been described as the practice in Bihar. In Bengal instead of a division of the crop, or of the estimated value of it, in the current coin, the whole amount payable by the individual cultivator, was consolidated into one sum, called the assul or original rent; and provision made for the zamindar, the village accountant, the mundul and the other inferior officers, by other means than by a division of the zamindari portion of the produce. This was effected, either by grants of land, or by the privileges of cultivating on lower terms than the rest of the inhabitants, and partly in money; a mode which, as it afforded the officers of Government no interest in the accuracy of the village accounts, rendered the fabrication or concealment of them, the more feasible. *It, moreover, placed the zamindar in a condition more consistent with European notions of proprietary right in the soil, than could be inferred from the portion of his produce, shared with the officers of Government; and was, perhaps, the foundation of much of that difference of opinion, which appeared in the official discussions on that topic, under the Supreme Government at the time.*"

The extract quoted above is a finding of fact and not a mere expression of opinion.

It is clear that the hereditary zamindars had the proprietary right from before the Permanent Settlement but in many cases temporary farmers in possession were recognised in the Permanent Settlement as zamindars and treated as such. There was a process of levelling up and both were put in the same category.

The findings of Sir John Shore in his minute, dated 18th June 1789, are reproduced below:—

"370. I consider the zamindars as the proprietors of the soil, to the property of which they succeed by right of inheritance, according to the laws of their own religion; and that the sovereign authority cannot justly exercise the power of depriving them of the succession, nor altering it, when there are any legal heirs. The privilege of disposing of the land, by sale or mortgage, is derived from this fundamental right, *and was exercised by the zamindars before we acquired the dewany.*"

"371. The origin of the proprietary and hereditary rights of the zamindars is uncertain; conjecture must supply what history does not mention; they probably existed before the Muhammadan

conquest, and without any formal acknowledgment, have acquired stability by prescription. I do not admit the sunnud, which the zamindars sometimes receive, to be the foundation of their tenure; which though it may acquire confirmation from it, exists independent of this deed. The origin of the possession of some zamindaris may be traced to a grant, but the inheritance goes on, without it."

Q. 5. The solemn pledge given at the Permanent Settlement was reaffirmed by Governors in reply to civic addresses presented to them. The agreement was between the proprietors of the soil and the Government who represented the tenants and there was no occasion to consult the tenant directly, but Government was not unmindful of his interest. His rights as found by Sir John Shore were summarised in paras. 389, 405 and 407 of Sir John Shore's Minute, dated 18th June 1789, reproduced in answer to question 1. While recognising the proprietary right of the zamindar Government made a clear declaration that steps would be taken to protect the tenant and to see that the zamindar did not realise more than what he was entitled to by contract. Even during the Moghul period the tenants were never consulted. Jaffar Khan as well as his successors added imposts over the zamindari assessment, the total of such assessments between 1722 and 1763 being Rs. 1,17,91,853. There were contracts between the State and the zamindar and the latter was left free to distribute the addition over his raiyats in any way he considered proper. The State was not interested in that. The direct receipt from land revenue has undoubtedly been restricted to a certain extent by the Permanent Settlement but this loss has been more than compensated in other directions. This Settlement established peace and enabled the population to recover from the effects of the famines of 1770-71, 1784, 1786 and 1787 and brought back prosperity which was reflected in higher receipts from other sources such as customs, excise, forests, etc. The other advantages gained have been fully described in reply to question 1. Apart from the legal aspects of the case, annulment of the Permanent Settlement without giving proper compensation to the landlords is not a practical proposition. It does not mean only the repeal of Regulation I of 1793 but of the entire tenancy legislation up to date which is all based on it. There will be a complete social revolution. A vast body of middlemen have been created who to a great extent depend upon their income from land. If their interests are all acquired, as a necessary corollary to the annulment of the Permanent Settlement, the entire social structure will be altered. These middlemen form the bulk of the bhadralok middle classes and they will be driven by want to join the communists or socialists. Their ranks will be swelled by the

dispossessed zamindars and also the large body of tenureholders and tenants at fixed rates who will have to give up their long cherished rights. Communists and socialists are gaining strength daily and a sudden large access of strength to their ranks will render administration extremely difficult. If the rent of the tenants is increased and the fixity of rent ignored, the entire body of them will range themselves against the Government.

The increase in revenue to be obtained by the annulment of Permanent Settlement and elimination of middlemen and removal of law about fixity of rent in certain cases will not be very high. According to the Land Revenue Administration Report of 1936-37 the areas of land and income from different classes of estates are as shown below:—

		Area in sq. miles.	Revenue in lakhs.	Revenue per sq. mile.
			Rs.	Rs.
1.	Permanently settled estate ..	58,386	2,15	367
2.	Temporarily settled estate ..	5,211	26	500
3.	Government estate ..	5,710	71	1,243

The utmost that can be expected will be 1,243—367 or Rs. 876 per square mile increase in 58,386 sq. miles or about 511 lakhs but from this will have to be deducted—

(1) interest on capital outlay incurred in acquiring all interests,

(2) cost of periodical revisional survey at Rs. 950 per sq. mile,

(3) cost of agency to be employed in undertaking the resettlement,

(4) cost of direct management including cost of enquiries into the extent of diluvion, alluvion and deterioration of land,

(5) average loss for remission and abatement of revenue in bad years.

It is a well known fact that the percentages of collections in estates under the direct management of Government are very much below what they are in permanently settled estates. In order to demonstrate this, I compiled a comparative statement, from the Board's Annual Land Revenue Administration Reports, showing the demands, collections and the percentages of collections in the 2 classes of estates for the last 6 years. It will be seen from copies of it annexed in replies to questions 10 and 11 what a huge amount always remains outstanding in Government estates as arrears and also that the percentages of total collections on total demands in

Government estates are about half of what they are in permanently settled estates. It shows that total rent demand in Government estates may be a very large amount on paper, but standard of actual collections is low and for this reason if the permanently settled estates are brought under direct management after removal of all intermediate holders, the demand on paper may show great increase but actual collections will be much below the paper demand.

Q. 6. The immediate result of the Permanent Settlement was disastrous both for the zamindar and the tenant. As the assessment of revenue was on the expected increase from reclamation of about 1/3rd of the previously cultivated lands thrown out of cultivation by the famines of 1770-71, 1784, 1786 and 1787, the big zamindaris were unable to bear the strain and all the old zamindaris were ruined and split up. After each sale the new zamindar evicted all tenants except khudkasht kademee or made fresh settlements. Conditions were therefore very much unsettled. To make the reply self-contained I am again quoting the extract below to show the extent of these changes, from para. 11 of the letter of the Court of the Directors, dated 15th January 1819:—

"When we bear in mind the fact stated by Mr. Roche in the Minutes recorded on your revenue consultations of the 12th August, 1815 that subsequently to the period of the Permanent Settlement 'Probably one-third, or rather one-half, of the landed property in the Province of Bengal may have been transferred by public sale on account of arrears of revenue' we can readily perceive how prodigiously numerous must have been the instances in which engagement between zamindars and raiyats were annulled."

It is not to be expected that so long as condition like that described above prevailed there would be any improvement. Mr. Ascoli estimates that by 1802 the increase of cultivation in Dacca was about 6¼ per cent. and that it was typical of the province. It took at least 40 years for the zamindars to settle down and since then progress has been rapid. The zamindars had the greatest incentive to extend cultivation as this was the only way by which they could save their estates. Increase of cultivation required costly protective embankments and irrigation works, the capital for which the tenants did not possess. In reclaiming jungles also, capital was necessary and generally the zamindars employed middlemen who found the capital and organised the work and for which allowance was made in fixing the rent payable by them to the zamindars. I can say from personal experience that the greater part of the Rungpur district was reclaimed in this way by creating big jotes and giving 50 per cent. margin of profit to the jotedars. It may be said therefore that a great portion of the extension of cultivation was due to the initiative of the zamindars. In some cases such areas were

cleared by the tenants themselves, who were given concession during the period of reclamation. In the absence of any statistics it is not possible to indicate the exact proportion of the increase due to the 3 causes mentioned in the question but considering the circumstances it may be estimated that more than half was due to cause (*iii*).

Q. 7. Not possible to estimate proportion in the absence of statistics but it may be pointed out that the increase would not have taken place so quickly, if peace and tranquility had not been assured by the Permanent Settlement and also if District Officers had not been set free from their continual preoccupation with revenue settlement and revenue collections. Temporary settlement whether with zamindars or farmers would have retarded progress and there would have been no incentive for undertaking costly works of protection and improvement and oppression on tenants would have been inevitable. Trade and commerce would have been depressed all round. The increase was the result of the conditions brought about by the Permanent Settlement and the factors stated in answer to question 6 (*iii*).

Q. 8. Immediately after the Permanent Settlement, it was the zamindars who needed protection. All the big zamindaris were dismembered and most of the old zamindars were ruined and reduced to beggary (*vide* extracts from Fifth Report quoted in reply to question 3). The tenants were defiant and the zamindar was unable to collect his rents and his estates were sold. There was no question of generosity in the Permanent Settlement but a case of pressing need which impelled the Government to this course and the immediate result was the disruption of nearly all the ancient aristocratic families. This state of affairs continued for several years until the Regulation VII of 1799 was passed which gave the zamindar the power of distraint. This led to oppressions. The main trouble was that the Government did not implement the declaration about granting of pottas to tenants. The Regulations passed were ineffective and so long as there were no records of rights, grant of pottas was not practicable. It is true that Regulation VIII of 1793 contained detailed instructions as to what the pottas should contain (sections 56 to 61). Prohibitions were imposed against exactions of abwabs and penalty for infringement was provided (sections 54 and 55) but all these proved infructuous. The Court of Directors in their letter, dated 15th of January 1819, summed up the causes of failure of the Regulation VIII of 1793. It was observed that "original Pottah Regulation (VIII of 1793) was also materially defective, in making no sufficient provision for the ascertainment of the rights in which it professed to secure the ryots by their pottas." Act X of 1859 removed many of the grievances and took away the zamindar's right of distraint. Although Lord Cornwallis had declared in the most emphatic terms that it was the duty of the State to protect the tenants

(*vide* extract from his Minute, dated February 1790, para. 2 quoted in reply to question 2), subsequent Governments failed to do this effectively. So far as the rents payable by the tenants were concerned it may be said that generally they were moderate. In the Cossimbazar estate, the biggest single estate is in Rangpur district with a rent-roll of Rs. 5,59,432. The rate at which rents are generally paid by the old tenants is Re. 1 to Re. 1-4 per local bigha. In a small percentage of cases it is Re. 1-8 per local bigha. These work out to As. 8 to As. 12 per standard bigha. The main crops are jute and winter paddy. The former is a very valuable crop. In many districts like Burdwan, Nadia, etc., lands are going out of cultivation on account of the ravages of malaria and the zamindar has to try his best to keep the tenants by making concessions as much as possible. Many villages once very populous are now wildernesses and the haunt of wild animals. It is only in areas where land has still some value that rents are fairly high. Figures were compiled in the Revenue Department when I was the Assistant Secretary for 11 districts from district settlement reports. The result is noted below. In some reports the rates of rents paid by undertenants to tenants are available and these also are noted below:—

Name of district.	Average rate of rent per acre of raiyat.						Average rate of rent of under-raiyat.			
	At fixed rent.		Occupancy raiyat.		Non-Occupancy raiyat.					
	Rs.	a.	Rs.	a.	Rs.	a.	Rs.	a.	p.	
Bankura ..	2	14	1	12	2	0	2	9	0	
Midnapur ..	3	10	3	2	3	8	5	7	6	1st grade
							6	3	5	2nd grade
Jessore ..	1	5	2	7	2	8	3	14	0	
Khulna ..	2	6	3	6	3	8	5	0	0	
Faridpur ..	2	9	2	9	2	10	3	12	3	1st grade
							4	0	0	2nd grade
							4	6	5	3rd grade
Bakargunge ..	3	2	4	9	4	8	7	0	9	1st grade
							7	13	4	2nd grade
							9	14	7	3rd grade
Dacca ..	2	3	2	13	2	13	3	6	0	
Mymensingh ..	1	14	2	12	2	12	5	0	0	
Rajshahi ..	2	8	3	5	3	5	5	13	0	
Tippera ..	3	12	3	2	3	6	7	0	0	
Noakhali ..	5	3	4	4	4	8	6	9	0	
Murshidabad ..	2	15	3	7	4	8	9	4	7	(*a*) For those with occupancy right. Rate for under-raiyat without occupancy right is 4-12-6.
Birbhum ..	3	7	3	14	4	0	8	11	6	(*b*) For those with occupancy right. Rate for under-raiyat without occupancy right is 5-4-2.

The averages given above do not indicate that there are high rents on a large scale. The general tendency is moderate though there are no doubt black sheep in the flock. My experience shows that whenever there is any rate which is higher than what the land can bear it is bound to be sold up in time and the zamindar gets it back on his hands by khas purchase with a loss of arrears of rent. It is not to the interest of a landlord to resort to rack-renting as it is a shortsighted policy which involves loss in the end and moreover creates discontent which renders collections difficult and if rent is not collected, payment of land revenue has to be made by incurring debts. So far as my information goes, all the big zamindars follow the policy of moderate rent and punctual collection. Now-a-days specially when the tenants are more or less organised and imbued with socialistic ideas—only in respect of the classes above him—the zamindar is obliged to follow a policy of conciliation and rack-renting is becoming an impossibility. The worst offender in this direction is the tenant who sublets his land on cash rent as the Table above will show.

Generally speaking the tenants under a private zamindar are much better off than in an estate under the direct management of Government. The tenant can extort concessions by threats from a zamindar and the latter has to submit as he must pay the land revenue punctually and has to take whatever he may get, even if the demands made of him are unreasonable.

The answer to the question is that the expectation, so far as punctual payment of revenue and moderation towards tenants are concerned, has been fulfilled and it may be said that the tenants have now got concessions at the expense of the zamindars which were never contemplated at the time of the Permanent Settlement.

The views expressed above are amply corroborated by the findings of the late Director of Land Records in connection with the settlement of Murshidabad district—the Final Report for which was published late last year. This officer had probably the largest experience of revenue settlements first as Assistant Settlement Officer, then as Settlement Officer and then as Special Land Revenue Settlement Officer and lastly as Director of Land Records and Surveys and his findings should, therefore, carry weight and the report is also of great value as it is recent and embodies the experience up to date. Some extracts are quoted below:—

"The question as to how far the Permanent Settlement as a legal measure was detrimental to the tenantry has been much debated. Sir J. Colebroke has been quoted to have expressed on 'the melancholy errors of the Permanent Settlement,' 'on the sacrifice of the Yeomanry, etc.' I am afraid, as far as I could judge from a somewhat intensive study of the conditions in this district, the charge cannot in my opinion

be fully endorsed. Rarely one meets a village where the tenantry has not continued for generations. It is easier to trace old connection of the peasantry with a village than that of the landlord. That the tenantry could hold to their lands from a time prior to the safeguarding Bengal Tenancy Act is a proof that the circumstances were not so unfavourable as are sought to be made out. The village rights exist—except in the case of pasturage—no worse than what existed before. In the matter of common pasturage more tenants are found to take up and break down such land for tillage than the landlords could ever expect and for this Permanent Settlement in my opinion is 'less' responsible than various other circumstances with which the Permanent Settlement had little or no connection. This will be borne out by a study of the circumstances in the temporarily settled or even khas mahal estates. It was asserted that 'the Permanent Settlement left the zamindar to make his settlement with them on such terms as he might choose to require.' The continuity of the tenantry from father to son for generations is a proof that in the largest majority of cases the terms were not unfavourable. The average rent rate is about rupees three and odd per acre. Judged by the outturn and the rent rates in the temporarily-settled estates in the Province this is not high. Here, too, his terms cannot be said to have been harsh, while in every village one may get from any old tenant that in the majority of cases in the past, the relation between the landlord and the tenant was sweeter and much more friendly evincing greater good will on either side than what could be claimed to-day. If people's verdict be any evidence—to my mind there can be no better evidence—the position has gone from bad to worse in more recent times when tradition was lost and law was substituted to regulate the relation. For all that Permanent Settlement cannot by any process of logic be held responsible. Black sheep there were, are and must be in future. The exchange of patta and kabuliyats—which was the one omission to which all the alleged ills of the tenantry are attributed could have availed little when large ignorance, little education, still less capacity for organised action were the order of the day. Those who know how in spite of the strictest injunctions of law to-day rent receipts in proper form are not granted, and abwabs are collected must realise that law is incapable of enforcing what can only be enforced by organised and educated social sense. The Permanent Settlement by securing the necessary conditions of growth has done more than anything else to create the beginning of that social sense. The clear provisions in the Permanent Settlement regulations have enabled the Government to step in and protect the cultivators and now that a piece of legislation like this is entirely in the hands of the people it is up to them to speed up the perfection of what in the largest interests can be held to be conducive to the real welfare of the country as a whole.

My conclusion is that the Permanent Settlement as a fiscal measure did nothing to the detriment of the raiyats. It took away no rights which the tenantry then possessed, deprived them of no security which they otherwise had. The processes of rent realisation in the beginning had to be made harsher as were the processes for the realisation of land revenue but much of that hardship was due to rationalisation of business methods which had to come. On the other hand, I believe that the ultimate effect of the Permanent Settlement certainly was for the good of the tenantry, as the rate of rent in Bengal is lower than that of other provinces, viz., Punjab, United Provinces, and others. It provided the State at once with the moral background to interfere whenever it thought that the tenants had a grievance and the tenancy legislations embody in the main the effect of the strenuous endeavours in the interests of the actual tiller.'*

Q. 9. The first part of the question has been dealt with in para. (3) of reply to question 1 and also in replies to questions 2 and 3.

The other duties imposed were maintenance of correct accounts and granting of rent receipts which have been generally fulfilled.

Absenteeism is of recent origin and has not affected the policy followed by the zamindars. Most of the big zamindars are resident but they can reside in one place only while their zamindaris are very much scattered and cover a wide area and in such cases it matters little whether he resides in a town or village within his zamindari or in a town outside it, unless he has the energy to inspect and come into touch with all parts of his zamindari. If a zamindar is energetic he will inspect all parts of his estate and it is immaterial whether he starts on these tours from a village within the zamindari or a town outside it. So far as the big zamindars are concerned "absenteeism" has no meaning. The temperament of the zamindar is of greater importance than the place of his residence. Most of the big zamindars do very little of touring but employ managers and depend upon them. I know of some zamindars who employ managers but keep a very close watch over them and in order to do so they come in touch with the tenants. Petty zamindars who manage their own estates without the help of a manager necessarily remain in touch with the tenants. Besides this, the recent Acts of the Government have given power of exchange to the tenants, but the Government does not recognise any exchange by landlords.

Q. 10. The Permanent Settlement was the outcome of pressing necessity (*see* reply to question 1). The old tenants have benefited by getting their rents fixed in cash on the basis of assets at the time of Permanent Settlement. Considering that the price of paddy at the time of Permanent Settlement was about 8 annas per maund, the rates prevalent now-a-days is about 4 times that. Rents in some cases have

been enhanced at 2 annas per rupee at intervals of 15 years but this has not affected their profits materially. The reason why they are hard up is that the purchasing power of the rupee has decreased and wants have increased. Limitation imposed by tenancy legislation has placed the tenants in a position and has given them rights and privileges which they never enjoyed even under the Moghul rule. It can be said that the Permanent Settlement taken along with the subsequent tenancy legislation has materially improved the lot of the mass of tenants. A middle class of bhadraloks has been created and they are the intelligentsia of the country. After the disastrous years, which immediately followed the Permanent Settlement, were over and most of the original zamindars with whom the Permanent Settlement had been made had disappeared, their successors benefited, until socialistic tendencies disturbed the peaceful atmosphere. The cry nowadays is not so much due to any injustice according to old ideas but the growth of socialistic and communistic doctrines and the preaching of modern popular leaders against the unequal distribution of wealth and the moneyed class in general. If the future aim be a policy of appeasement towards the socialists and communists, there is no reason why the zamindar should be singled out and the other property owners and owners of unearned wealth should be left untouched. If the doctrines are followed to their logical conclusion there should be no individual ownership of land or house or any other property and no inheritance. The cry now seems to be that the zamindars must be deprived of their unearned wealth but the same principle is not to be followed any further down nor is any other class to be touched.

The reply to the question is that the system did the greatest good to the largest number so long as revolutionary doctrines did not permeate society. It has been pointed out in reply to question 5 that any attempt at bringing down the entire social structure which has been evolved in the last 150 years would end in a cataclysm.

The present tenancy laws are all for the tenant and it is the zamindar who needs protection. The tenants have gained considerable advantage at the expense of the zamindars and the zamindar has not gained anything worth mentioning at the expense of the tenant.

The reply to the question is that when the Permanent Settlement was effected the question of greatest good for the largest number was not at issue. The main problem for consideration was how to assure the punctual realisation of the largest possible amount of land revenue that could be then demanded. Experience, however, shows that the measure has been for the greatest good for the largest number, *i.e.*, the masses, the middlemen and the zamindars.

Another point to be considered is that actual collection in permanently settled estates is far more satisfactory than in estates under the direct management of Government and it is, therefore, more advantageous to the State also. Figures are given in the statement annexed at the end of this question showing collections in permanently settled estates and Government estates in the last 6 years. It has been compiled from the Board's Annual Land Revenue Administration Reports. It will be seen what a huge amount of arrears always remains outstanding in estates under direct management and how the percentage of total collections on total demand in such estates is generally about half or even less than half in comparison with permently settled estates. In direct management the total rent roll on paper may be very high but actual collection will be less than what it is now under Permanent Settlement.

The present unrest is mainly political and also to a certain extent because the country is very poor and there is not enough national wealth to go round to everybody to make the nation prosperous. The policy of robbing Peter and paying Paul may temporarily satisfy the class benefited but even if the policy is followed the masses will ultimately realise that the removal of the hated class has not left them very much better off and the main problem must be the increase of national wealth. Any temporary palliative will be ineffective and only fan the flame of class hatred.

The late Director of Land Records in his Final Report on the settlement of the Murshidabad district has observed in para. 105:—

"But it can hardly be denied that its economic and political effects on the whole was satisfactory. It gradually stabilised habits, standardised life. Though the security of the tenants was not made safe by the statutory contracts—which later had unfortunate effect—yet at the time when there was more quest for tenants than for land the situation itself was a substitute for law."

"Stabler conditions increased the population, converted the quest of landlords for tenants to a ceaseless quest of tenants for land....."

"It is not improbable that a cynical nationalist economist of the future may even attribute to the self-imposed limitation of the executive Government, a part of the progress which Bengal unquestionably enjoys. He would probably argue that it tended to conserve automatically a part of the wealth which in taxation would have gone out of his country for expenditure over which constitutionally, till of late, the people had no control. He might even attribute to this measure a part of that culture and general well-being which the people of Bengal—its peasantry, its middle class, its landlords, and even its much abused

mahajans and lawyers enjoy. The question of the abrogation of the Permanent Settlement, therefore, needs to be approached with the utmost circumspection....."

Year.	Total Demand.		Current Demand.	
	Permanently-settled estates.	Khas Mahals.	Permanently-settled estates.	Khas Mahals.
1931-32 ..	2,32,43,736	99,61,730	2,15,56,925	62,30,304
1932-33 ..	2,43,78,514	1,16,16,894	2,15,53,131	64,15,819
1933-34 ..	2,52,81,101	1,35,52,480	2,15,31,443	66,09,714
1934-35 ..	2,51,50,753	1,49,32,873	2,15,14,560	68,18,527
1935-36 ..	2,45,62,219	1,49,01,445	2,15,01,774	71,70,109
1936-37 ..	2,44,11,784	1,33,88,505	2,14,98,926	71,00,040

Year.	Total Collection.		Percentage of total collection on total demand.		Percentage of collection on current demand.	
	Permanently settled estates. (b)	Khas Mahals. (a)	P. S. Estates.	Khas Mahals.	P. S. Estates.	Khas Mahals.
1931-32 ..	2,04,20,976	47,87,414	88·12	48·05	94·73	76·84
1932-33 ..	2,06,18,800	46,00,204	87·80	40·11	95·57	72·63
1933-34 ..	2,16,37,609	52,86,419	85·58	39·00	100·49	82·39
1934-35 ..	2,20,83,115	67,85,600	84·57	44·26	103·17	99·51
1935-36 ..	2,16,14,328	74,39,383	87·85	49·11	100·52	103·75
1936-37 ..	2,22,67,413	74,59,032	91·21	55·46	100·35	106·04

(*a*) Includes interest.
(*b*) Does not include interest though interest is now being realised—Nor are amounts realised as penalties for exemption from sale shown.

Q. 11. (*i*) and (*ii*) Without statistics it is not possible to state what percentage is appropriated by the classes above the tenant. The total amount appropriated is shared by the zamindars and the middlemen which included *de jure* raiyats who have let out their lands on cash rent. These middlemen form the bulk of the middle class gentry of the province. Exact figure about the number of such middlemen is not available.

It may be true that 75 per cent. or 80 per cent. is absorbed between the cultivator and the State but it is necessary to examine whether it is for the greatest good of the largest number. Between the actual cultivator and the State there are sometimes as many as 20 to 30 intermediate holders. At the very bottom is the tiller of the soil. Above him there are in some cases 2 or more grades of under-raiyats. On the top of these is the *de jure* raiyats. Then above him are layer after layer of tenure-holders. If the object of the State be to reach directly the income from the soil it will be necessary to do away not only with the zamindar but the *de jure* raiyat who has let out his lands to under-raiyats and also the top grades of under-raiyats. Subinfeudation

existed during Moghul times, and there were jaigirs and tenures like *ayemas, maddamash, altamgha,* etc. During the Dewani period also there was subinfeudation. Sir John Shore in para. 180 of his minute of 18th June 1789 observed:—

"A zamindar possessing an extensive district having made a settlement with Government, relets, in portions, to several farmers; they again make over their leases, in whole or in part to others; and these again, to renters of inferior denominations."

Subinfeudation existed from before but the Permanent Settlement gave an impetus to it.

Another point to be considered is that under direct management, the rent-roll may show a very high figure but it has been found in practice that a very large amount always remains outstanding in Government estates under direct management and the percentage of total collection in these estates on the total demand is generally half or even less than that in permanently settled estates. This will be clear from the comparative statement annexed at the end of the preceding question. It has been compiled from the Board's published Annual Land Revenue Administration Reports.

The existing order of society has been evolved from conditions brought about by the Permanent Settlement. The extinction of the zamindars and middle class will create a new order—probably socialistic —the result of which it is difficult to foresee. It is certain that there will be bitter class war and unsettled conditions will prevail for the long period of transition. The dispossessed zamindars and middlemen will swell the rank of the communists and if the intention is to realise the entire income from land direct from the tillers of the soil after removing all intermediaries including *de jure* raiyats, the existing laws about fixed rents will have to be abolished and this will affect the masses. Considering the appalling state of unemployment it would be highly impolitic to deprive such a large body of men of the means of their livelihood. Please also see reply to question 5.

(*iii*) No. See reply to question 8 where it is fully dealt with.

(*iv*) The tenants are better off under private zamindars than in estates under direct management. (*See* reply to question 8.)

There are complaints about the corrupt collecting agency but even under direct management, the class of agency now employed by the zamindar will have to be employed by the State also. So long as national characteristics do not change the collecting agency will behave

in the same way under State employment as under private employment. Whenever the agents of the private zamindar are oppressive, the tenants appeal to the zamindar and failing him move the Government. The zamindar is more amenable to threat and persuasion, there being a personal factor, than the State, which is merely a machine, by organised body of raiyats as he must collect sufficient money to pay land revenue and cannot afford to displease the tenants and the latter can, therefore, get the best terms from him. The present day zamindar shorn of all his previous powers and most of his privileges, is not what the term overlord ordinarily connotes nor is he burdensome.

Q. 12. The grounds are without any substance as explained in replies to previous questions and based in many cases on wrong assumption and this question therefore does not arise.

Q. 13. Anything which contributes to the welfare and prosperity of the largest number of the people cannot be described as a "loss". There may be a loss according to mathematical calculation but on the whole it is a gain to the people. Ultimate individual wealth alone contributes to the wealth of the nation and on that depends all prosperity. Attention ought to be directed to the most important and basic question whether it is conducive to the best interests of the people at large. In reply to question 8, it has been shown that the zamindars have acted with moderation towards the tenants and how it is more advantageous for them to be under a private zamindar than directly under the State. The welfare of the zamindar is bound up with the welfare of the tenants and the main goal of both is the same. He is a human being whereas the State is a machine. He is a buffer between the State and the people with a leaning towards the latter and his removal will be prejudicial to the interests of the tenant. Apart from the legal aspect of the question, it has been shown in reply to question 5 that it is impracticable to do away with the Permanent Settlement without a social and economic revolution which will inevitably result in the socialists and communists gaining the upper hand. The present unrest is due to the spread of revolutionary doctrines which lay the greatest stress on the unequal distribution of wealth and the inequity of any one enjoying unearned wealth. These are considerations which do not affect the zamindar alone but the capitalist as a class and all those who enjoy properties by inheritance. For the present the zamindar has been singled out and zamindar-baiting has become a popular pastime. In the printed handbills distributed broadcast by the Krishak Samities (peasant associations) the zamindars are abused in choice epithets like blood-suckers, etc., and resolutions are passed in a similar strain. The tenants are already a privileged class and for them the ordinary law in the Indian Penal Code against promotion of

class hatred is apparently in abeyance. If, however, full effect is given to the doctrines on which the attacks on zamindars are now being based, the capitalists and all persons enjoying unearned wealth should go and this will include the grades of tenants who do not cultivate lands themselves as well as those who inherit properties. The financial aspect of the thing also needs serious consideration. Direct management will involve heavy costs in revisional settlements, costs of collections, maintenance of protective works and undertaking of irrigation works and works of improvement and also losses in the shape of remissions and abatements for failure of crops, deterioration, diluvion, etc. It ought to be ascertained what the net increase may be after allowing for all these. On the basis of figures in the Land Revenue Administration Reports of the last 6 years it will be seen that the percentage of collections in khas mahals is much lower than in permanently settled estates (*vide* statement annexed in answer to question 10). Investigations on these points and also regarding the cost of acquisition of the interests of the zamindars and middlemen and also the annual charges for interest and sinking fund on the capital outlay, are essential before any of the alternatives suggested can be properly examined. Without any data on this all important point, the present discussion is more or less academic and of theoretical value only. For these reasons, I consider the alternatives suggested in (*i*) and (*ii*) to be highly injudicious.

(*ii*) Temporary settlements were found by experiment to be unsatisfactory, as the temporary lessee having no permanent interest was always inclined to extract as much as he could during his tenure and leave the estate ruined. This led to oppression and malpractices. Moreover, costly agency will have to be entertained for periodical revisions of the record of rights with a view to accurate assessment and the Collector's time will be monopolised by the work of revisional settlements and general administration will suffer.

Sir John Shore in his minute of 18-6-1789 fully discussed the three alternative systems of collection (1) directly by the State, (2) through farmers, and (3) through zamindars. Most of the arguments used by him against (1) and (2) still hold good and deserve careful consideration. For facility of reference, I am herewith annexing extracts of the paras. 154 to 164 of his Minute.

(*iii*) The imposition of a tax on agricultural income seems undesirable. I am not competent to express an opinion on the legal aspect of the thing but it will involve the breach of a solemn pledge. It is bound to be highly unpopular, as it will affect not only the zamindars but a considerable body of middlemen and all aspects of the question have to be thoroughly examined before any decision can be arrived at.

Besides this, the landlords pay a higher tax to the State in the shape of revenue and cess than the other moneyed classes do in the shape of income tax.

Appendix to Question 13.

Extract from Sir John Shore's Minute, dated 18th June 1789.

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154. There are three modes by which the revenue of the country may be realized for the State. First, by employing officers for this purpose on the part of Government, to collect them immediately from the raiyats or lower denomination of tenants, without the agency of the zamindars or farmers. This mode of management is usually termed khas, the inferior agents and receivers under the Collector are chosen by him, and have fixed salaries allotted to them.

155. The due and successful administration of this plan, supposes sufficient knowledge and experience in the Collector employed, with respect to the rent and land, to regulate all the detail of the settlement and collections as well as time and application to go through with it, the mofussil account should be examined, the charge of the inferior agents, whether employed to collect the rents of a village or pergunnah should be inspected and curtailed where exorbitant, the number must be regulated and the rent of each village and indeed of every raiyat ought to be adjusted.

156. The advantages attending this mode of settlement, in speculation are these:—The Collector has it in his power to reduce the cesses where they are burthensome, and to equalize the assessment paid by the lower classes of raiyats, it affords him an opportunity of ascertaining the resources of the district, to acquire a knowledge of any improper reductions which have been made in the rental, to afford relief where wanted, to encourage improvement, and to establish such regulations as he may deem best calculated for the security of the cultivators of the soil, against present exaction and future oppression.

157. It ought also to be the most productive, by bringing to the account of Government the profits of intermediate farmers and contractors, as well as the produce of their frauds and embezzlements.

158. The objections to the plan and its disadvantages are these:—That it presumes a degree of knowledge, experience and application in the Collectors, which is rarely to be found or attained: It may exist in those of the present day, without any assurance that it will be found,

in their successors. The selection of proper inferior agents depends upon them; and their fidelity and exertions, from the dewan and officers in his cutchery to the lowest deputy, will be in proportion to the ability and vigilance of the superintending officer. If incapable of examining the accounts of his agents, and of detecting the fallacies of them, he will be exposed to constant imposition, and the public loss will be proportionally great. The same effects would follow from indolence.

159. The Government is not secured, with respect to its revenues, by any specific engagements; it must stand to all losses and accident of seasons; where the raiyats fail or are unable to pay, there is no remedy, and the annual amount of the revenues must be subject to considerable variation. The native officers employed in the detail of the business are only bound to a responsibility generally for the faithful discharge of the trust reposed in them, and to account for what they collect.

160. The Board of Revenue can exercise little control over this mode of management, but must rely upon the conducting officers; the detail is too minute for their inspection.

161. Where the operation is applied to the lands of a zamindar, he remains idle; or, what is worse, employs himself secretly to counteract the success of the Collector, and a subsistence must be allowed him by the Government.

162. In general it will be found, that the settlements attempted upon this plan, have proved unsuccessful under our administration. It was, however, often executed by the Mahomedan Government, who entered into all the details of the business, and examined the accounts of the aumil or collector with rigour and minuteness. Whether, for this reason it ought to be attempted by us, or not, remains to be decided. (185).

163. In the execution of a khas settlement, as usually performed, details which I have described are seldom entered into; and it means little more than delegating authority to the Collector of a district, to conclude specific engagements with farmers or with petty landholders for the rents of the several pergunnahs and divisions, instead of entering into an agreement for the revenues of the whole zamindari, with the proprietor of it. These engagements are more or less detailed, at the discretion of the Collector. The principal advantage attending this mode of management, is the probability of larger receipts. That, rests upon the supposition, that the zamindar declines engaging for the revenue of his lands, and that the resources of them, are equal to the assessment on them, as well as to furnish a provision to the zamindar upon the Collector's knowledge of these emoluments, and upon his ability to collect them. With regard to the persons with whom he may

enter into engagements, a comparative advantage may arise to them; that of a better security from contracting with Government, than with the zamindar, but this ought not to be the case, where the Collector knows and discharges his duty. In other respects, the plan combines many of the evils attending the farming system which is now to be considered.

164. The conveniences of collecting the revenues by farmers are, few and small; whilst the disadvantages are, many and great. It is certainly easy and simple to contract with a farmer for the revenues of a district: and this is all that can be said for it. Experience proves that it is fallacious in point of security for the farmers and securities both fail; and that it is oppressive in its execution. The engagements with a farmer, from a deficiency of local knowledge in the officers of Government, can seldom be made with sufficient precision to prevent impositions on his part; and the subsequent attempt to redress them, generally affords him grounds for claiming remissions. A temporary farmer never looks to future improvements: and the system opens a door for the introduction of persons in the management of the collections, who ought ever to be excluded; those who are in the service of Europeans, and participate their influence: But as it stands universally condemned, there is no occasion to detail inconveniences, which are acknowledged. The partial admission of farmers may perhaps take place on the grounds of necessity, as a remedy against greater evils.

Q. 14. I do not advocate (*i*) or (*ii*), but there can be no question that compensation should be paid if it is decided to expropriate the zamindars unless the Russian method of dealing with the *kulaks* is adopted and the zamindars are driven out in a body to some wilderness after being deprived of all their properties, and then left to starve. Clause (*2*) of section 299 of the Government of India Act, 1935, is a bar to the acquisition of any landed property without compensation. Land as defined in that section includes immovable property of every kind and any rights in and over such property. Compensation should be on the basis of market value of the property. Market value is generally calculated by a certain number of years' purchase on the net profit. Many factors tend to determine the question how many years' purchase should be adopted for a particular estate. Estates forming a compact block are more valuable than scattered properties. Then again 16 annas interest in a village is more valuable than a joint undivided fractional interest. Facilities of communication is another factor and facilities for irrigation another. There should also be compensation for any costly works of improvement such as embankments, excavated irrigation channels, and tanks, etc. The principle of section 82 of the Bengal Tenancy Act which provides for the payment of compensation

for raiyats' improvements in case of eviction should be extended to zamindars or tenureholders who are expropriated and compensation should be paid to them for such improvements. The form of payment should be either cash or bonds with a guaranteed rate of interest, the rate being not less than 5 per cent.

To calculate the total cost of acquisition of the interest of the zamindar and middlemen it is necessary to ascertain the profits of each zamindar or tenureholder after deduction of management charges and land revenue or rent payable to superior landlords. Then it will have to be determined for each case how many years' purchase should be given. Without these data, the total cost cannot be calculated.

Q. 15. Redeemable would be preferable if there is no financial difficulty. The period should be the shortest posssible. Interest should not be less than 5 per cent.

It should be undertsood that I do not advocate the expropriation of zamindars and the answers above are not to be taken as implying that I am a supporter of expropriation.

Q. 16. A complete social revolution with the communists on the top. For detailed reasons please see replies to question 5, 13 and 21.

Q. 17. If the object is to reach the income from land and do away with middlemen who absorb portions of it, all of them will have to be eliminated. On this principle the raiyat under the Government should be the cultivating raiyat and not the *de jure* raiyat.

The answer to the last part of the question cannot be given until the financial aspect of the thing has been thoroughly examined. It will be necessary to examine what the cost of the acquisition will be and then expenses under the following heads will have to be ascertained:—

(*a*) Capital outlay necessary for acquisition and cost of interest and sinking fund on capital outlay.

(*b*) Cost of maintenance of records and periodical revisional surveys.

(*c*) Collection charges.

(*d*) Cost of maintenance as well as new construction of protective and irrigation works and works of improvement.

(*e*) Cost of permanent survey establishment for measurement of alluvions, diluvions and deteriorations due to sand-deposit, etc., and also of areas affected by flood and drought and for splitting up holdings, measuring lands for new settlements, settling boundary disputes, etc.

(*f*) Cost of agency for supervision and check of works in (*e*) above.

(*g*) Cost of agency for carrying out resettlements with tenants involving reassessment and execution of leases.

(*h*) Additional grants for hospitals, dispensaries, schools, etc., to replace grants now paid to them by zamindars.

Then, losses due to remissions and abatements for failure of crops, deterioration and diluvion will have to be calculated and deducted from the gross profits. Estimated percentage of collection should also be calculated.

When figures for all the items mentioned above have been calculated and the amount of net profit ascertained, then only it can be said whether the proposed purchase will be more advantageous than the existing system.

Q. 18. (1) Survey and settlement agency for periodical revisions of records of rights. In the past the cost rate for this has been Rs. 900 to Rs. 1,000 per square mile.

(2) An agency to carry on the periodical resettlements with tenants.

(3) A permanent survey establishment to measure lands for splitting up holdings, settling boundary disputes, measuring lands for new settlements, areas affected by flood, drought or deterioration through deposit of sand or inrush of saline water, etc., and preparation of detailed statements after such surveys.

(4) Agency to supervise works mentioned in (3) above.

(5) Cost of establishment for maintenance of records.

(6) Cost of agency to carry out resettlements with tenants involving reassessments and execution of fresh leases.

(7) Engineering establishment for undertaking new works and maintaining existing protective and irrigation works and works of improvement.

(8) Overhead establishment for general supervision and prevention of abuses.

(9) Collecting agency.

When the costs under all these heads have been correctly calculated, then only it can be said what the estimated total-cost will be. Without any data no forecast can be made, but I think it will be rather high.

Q. 19. The zamindar is not popular now as class hatred is being sedulously preached without any let or hindrance as a part of the political game but when the passion has spent itself and the matter is examined coolly on its merits it will be found that the tenants are best off under private zamindars.

The khas mahal raiyats enjoy no advantages over tenants under the proprietors. It will be found if statistics are collected that rates of rent in khas mahal are generally higher than those in private estates of

the neighbourhood. Another point is that collections in Government estates are made more stringently than in private estates. The zamindar is amenable to reason and can be more easily influenced than the Government. The point of view of the zamindar is the welfare of the tenantry with which his own welfare is bound up but with Government such a consideration occupies a minor role and attention is directed more to the extraction of the largest possible amount of revenue.

Q. 20. The answer to the first part of the question is in the affirmative.

There is a confusion of ideas in the 2nd part of the question. The creation of the permanent tenures has not affected the position of the raiyats as they are entrenched behind the tenancy legislations and it is immaterial to them whether the man to whom he pays his rent is a tenureholder or a zamindar. Generally speaking the ordinary tenureholder other than the patnidar is treated more as a man belonging to the people than to the higher aristrocratic classes and also as such tenureholders with small limited area under them, are in more intimate touch with them than the zamindar. The patnidar is more akin to a zamindar than a tenureholder although he is technically so. The ordinary tenureholder, however, belongs to a higher status than the petty cultivator and intercourse between them has a beneficial effect on the cultivator, socially and economically.

Q. 21. "Tenure" is a very wide term and includes the big putnis, as well as semi-zamindaris like the holders of the Sunderban Lots under 40 years' leases, as well as middle class people holding comparatively small areas. All tenureholders below the 1st degree will come under the last class. The first 2 classes mentioned above may be classed as zamindars. They belong to upper classes of society. If they are bought off they will soon be reduced to beggary as the compensation they may get will be very small in view of the present slump in the value of agricultural lands and they will never be able to recover their invested capital. The utmost they may expect to get will be a small amount calculated at the present slump rate which will soon melt away. So long as he has his landed property, he can have the assurance of getting his food supply for himself and his family from the produce of his property and there is no risk of actual starvation. Once this sheet anchor is lost his condition will be precarious. Landed property gives stability as well as social status and credit. He can raise money on it in times of stress and liquidate his debts in prosperous year. With the loss of his land, he will lose credit and in times of need he will be bound to spend out of the small capital he might have got as compensation for his lands. When his condition becomes desparate he will naturally join the ranks of the revolutionaries who are already in the field. The latter will daily gain in strength and

having removed the landholders out of their path make a dead set of other moneyed classes and capitalists and persons enjoying unearned wealth and there will be discontent and class war all over the land and stable government will be a difficult problem, if not impossible. Trade and commerce will inevitably suffer. All respect for the upper classes will be gone and strikes will be the order of the day and industries will be crippled. The loss of prestige both of the Government and of the upper classes who held a commanding position all along is already sorely affected and the downfall will be very much accelerated by adopting a policy of appeasement *ad libitum*. Growing clamour of the revolutionaries may be appeased temporarily by holding out a sop in the shape of some concession, but the demands will go on increasing and larger and larger concessions will have to be made until a time will be reached when no further concession is possible and then there will be a clash. The zamindars and the landed classes may be the first scapegoat offered, but this will be a very temporary palliative. So long as means are not found to increase the national wealth by a popular Government working solely in the interest of the people, there cannot be any satisfactory solution and the suggested expropriation of the landholders will be taken as a victory for the revolutionary forces and infuse vigour into them for bolder actions. By the proposed measure there will be no increase in national wealth and on the contrary wealth, which is now confined to the country, will be transferred to sources from which they can be easily taken out of it. The lot of the masses will remain the same, as no part of the spoil will go to them but will be appropriated entirely by their rulers. The combined effect will be to hasten the end of capitalism and there will be a long period of chaos and semi-anarchy before things settle down again under a new order of Government.

The smaller tenureholders will be similarly affected. Some of them may earn something by manual labour but it will hardly be possible to find work for the large mass that will be set free from the lands. Discontent and unrest will be widespread and the days of peace and contentment will come to an end. The process of disruption has commenced and the proposed measure will hasten it.

Q. 22. The zamindars and the tenureholders should be given the option of retaining their homesteads and khas lands or of selling them to the State for fair value which should be determined by some expert and impartial tribunal.

Khas lands are of 2 classes—cultivated and uncultivated. As regards the latter the best way will be to refer to the record of rights where they are of fairly recent date. In districts where the records of rights are old and out of date, independent evidence will be necessary. All land not in the occupation of a tenant is khas and in case of dispute

between the zamindar or tenureholder and a tenant regarding any plot or area the burden of proof should be on the tenant to prove his tenancy.

There is a large amount of holding purchased khas by the zamindar or tenureholder at rent or certificate sales, which nominally are the property of the zamindar or tenureholder by right of purchase and shall be treated as khas land. There are, however, some such lands in the actual possession of the outgone tenants who are mere trespassers and enjoy the lands rent free. Such lands ought to be treated as khas.

As regards khas lands under cultivation, the tests ought to be whether they are cultivated by—

(1) ploughs and cattle belonging to the zamindar through his servants or hired labour,

(2) bargadars or adhiars on annual leases,

(3) through tenants-at-will of any other class.

In all such cases the land should be treated as khas.

Q. 23. Yes; occupancy right, as it is understood now, was created by the British by Act X of 1859. Previous to that the only permanent tenants were the "khudkasht". Their rights were, however, more limited than was conferred on them by the Tenancy Act. In the great Rent Case presided over by 14 Judges of the Calcutta High Court (Thakurani Dasi *vs.* Bisheshwar Mookerjee 3 W.R.), there is a very clear analysis of their rights. Extracts are quoted below:—

"These tenants seem, at the settlement practically and legally, though not by express Statute, to have been divided into two classes, the khudkasht kudeemee, and the simple khudkasht, or those who have been in possession of the land for more than 12 years before the settlement, and those whose possession did not run so long. Both by Hindu and Mahomedan Laws, as well as by the legal practice (Colebrooke's Digest of the Regulations, Vol. III, p. 4) of the country, 12 years had been considered sufficient to establish a right by negative presumption, that is, by the absence of any claim on the part of other persons during that period.....

* * * *

"As I have observed above, it had become the practice of the Government for the time being, to collect various imposts from the zemindar, who again was entitled to collect them from the raiyats.....By section 54 of Regulation VIII of 1793, all proprietors of land and dependant talukdars were required to consolidate these charges with the Assal or original rate, into one specified sum. And by section 55 of the same law, proprietors and farmers of land of whatever description, were prohibited from imposing any new abwab or mathoot on the raiyats, and a penalty was exacted in case of any infringement of the provision".

The khudkasht kudeemee raiyat had the right to hold his land, so long as he paid rent at the pargana rate. This was a fluctuating rate for different classes of crop and a raiyat cultivating one class of crop had to take the permission of the zamindar for cultivating any other crop and if necessary pay higher rate.

The ordinary khudkasht raiyat was liable to eviction by a purchaser of the zamindari at revenue sale. It is observed in the same judgment:—

"It follows that these laws, Regulation XI of 1822, Act XII of 1841, distinctly gave the purchaser the power to eject a khoodkasht raiyat whose tenure was created after the Permanent Settlement, and, if not ejected, they are liable to be assessed at discretion of the landlord."

The paikasht or non-resident raiyats were mere tenants-at-will, no matter how long they might have cultivated the same land.

By subsequent tenancy legislation, all these distinctions were done away with and one uniform class called occupancy raiyat was created and tenants who were ordinary khudkasht or even paikasht came to enjoy almost all the privileges of a khudkasht kudeemee. The doctrine of a settled raiyat acquiring occupancy rights is altogether an innovation. Act X of 1859 provided for the rights of three classes:—

(1) Certain tenureholders declared entitled to hold at fixed rents.
(2) Certain raiyats declared to hold at fixed rates of rent.
(3) Raiyats entitled to a right of occupancy.

The old classification was amended for the benefit of the raiyat and the rights of the zamindar have been systematically crippled by subsequent tenancy legislation in order to grant new privileges to the tenants. For a summary of the rights of tenants as they existed at the time of the Permanent Settlement, paras. 389, 406 and 407 of Sir John Shore's Minute of 18th June, 1789, reproduced in answer to Q. 1 may be read.

Q. 24. The allegation is totally unfounded. In answer to question 4, it has been explained that the zamindar was recognised as the proprietor from the earliest Hindu times and also during the Pathan and Moghul periods. This in itself rebuts the allegation in this question, but there is ample evidence to show that the cultivating raiyat had never any proprietary right. In the Moghul period there were three classes of raiyat:—

(1) Khudkasht Kudeemee.
(2) Khudkasht.
(3) Paikasht.

No. (1) was the old resident raiyat with a right of inheritance. He derived his interest from the zamindar and was his creation and he was

entitled to a patta from the zamindar. So long as he paid the rates at the pargana rate, he was not liable to eviction but he could be evicted if he refused to do so. He had no right of transfer by sale, gift, etc. In the great Rent Case (Thakurani *vs.* Bisheshar Mookerjee, 3 W.R.) 14 Judges of the Calcutta High Court who heard it found that "Khudkasht raiyats are simply cultivators of the lands of their own village, who, after being once admitted into the village, have a right of occupancy so long as they pay the customary rents, and therefore with a tendency to become hereditary, and with an interest in the produce of the soil over and above the mere wages of labour and the profits of stock, in other words above the cost of production."

The ordinary khudkasht raiyats were creation of a later date and during the period of Dewani of the East India Company they were liable to ejectment by the purchaser of the zamindari at a revenue sale. The Company was simply following the custom of the country and not introducting a new principle. The following extract from the same judgment makes the position quite clear:—

"Regulation XI of 1822 was passed, the use in section 32 of that law of the terms khudkasht kudeemee raiyat, or resident and hereditary raiyat with a prescriptive right of occupancy, to designate the raiyat who would not be liable to eviction or a sale for arrear of revenue, gave rise to the doctrine, that khudkasht raiyats who had their origin subsequent to the settlement were liable to eviction though, if not evicted, they, under section 33, could only be called upon to pay rents determined according to the law and usage of the country, and also, that the possession of all raiyats whose title commenced subsequent to the settlement was simply a permissive one, that is one retained with the consent of the landlord." (S. D. Decisions for 1856 pp. 617 to 628.) As regards the paikasht raiyat, he was merely a tenant-at-will.

None of the classes "of cultivating raiyats" mentioned above can by any stretch of imagination be called proprietors of the soil. As a matter of fact as a result of the Permanent Settlement, a prodigious amount of tenancies were terminated and renewed. The following is an extract from para. II of the letter of the Court of Directors, dated 15th January 1819:—

"When we bear in mind the fact stated by Mr. Roche in his minute recorded on your Revenue Consultations of the 12th August, 1815, that subsequently to the period of the Permanent Settlement 'probably one-third, or rather one-half, of the landed property in the province of Bengal may have been transferred by public sale on account of arrears of revenue', we can readily perceive *how prodigiously numerous must have been the instances in which engagements between zemindars and raiyats were annulled.*"

The term "proprietor" denotes the person who originally had the absolute right of use or disposal of the land. He may transfer portions

of his rights to another by contract, such as by lease to tenants or alienate in any manner he wishes. (*See* paras. 389, 406 and 407 of Sir John Shore's Minute, dated 18th June 1789, reproduced in answer to question 1.)

Q. 25. The occupancy right ought to be extended to all under-raiyats paying cash rent, no matter what his grade may be. It should not be extended to bargadars. See reply to question 32.

Originally the occupancy right belonged to the actual cultivators of the soil. In Act X of 1859 and also in the Act of 1868 this right belonged to those who actually held or cultivated the land as raiyat. Thus the right of the actual cultivator was recognised in the old tenancy legislation as well as in the Moghul period. A change was introduced by the Bengal Tenancy Act of 1885 which defined raiyat as one who *primarily* acquires lands for the purpose of cultivation with his own labour or by hired labour. The expression "hired labour" was added to the definition at the instance of the European indigo planters. The underlying principle of occupancy right being originally actual cultivation, logically the actual cultivator ought to get it as he acquires it by his own industry. The bargadar is not a raiyat but a hired labourer. (*See* answer to question 32.) Advantage was taken of the wide definition of a raiyat in the Bengal Tenancy Act by many tenureholders who claimed that the original purpose for which the land was acquired was cultivation although subsequently they might have sublet them to tenants.

Q. 26. A tenant who voluntarily parts with his rights for good consideration can not claim further protection against the under-raiyat. He should be bound by his contract. It would be an arbitrary act in violation of the Contract Act to attempt to annul rights created by the tenant himself.

Q. 27. At the time of the Permanent Settlement the contingency that non-agriculturists might come in was not visualised and there was no mention of them anywhere nor was any provision made to exclude or protect them. The Permanent Settlement was dealing with landed interest and the Government reserved the right to protect "the dependant talukdars, the raiyats and other cultivators of the soil," although it might have been the duty of the Government to protect all classes of people. Expropriation of agriculturists by non-agriculturists is becoming a serious problem and it has become necessary to protect the agriculturists but in doing so it will be found that for their sake, the non-agriculturists also should be protected within certain limits. The non-agriculturists who are now coming are generally the moneylenders who finance the tenants in their times of difficulty. But for the help rendered by them much of the land would have remained uncultivated. Unless Government is prepared to finance the agriculturists, the village

moneylender must be maintained but the abuses may be corrected by a Moneylenders' Act. If the provisions in such an Act be too harsh against the moneylender, he will stop lending and the agriculturists will suffer. Great circumspection is necessary in framing the Moneylenders' Act. Usurious rates ought to be cut down but at the same time he should be given facilities of realisation and the primitive village moneylender should not be called upon to maintain an elaborate and expensive system of accounts based on European ideas with which he is quite unfamiliar. There was no express provision in the Permanent Settlment regarding non-agriculturists, but there is no reason why they should be protected except in so far as it may be to the interest of the raiyat to protect them.

Q. 28. The answer to the 1st part of the question is an emphatic negative.

There should be provision for settlment of fair rent in urban areas on the lines of the provisions made in the Bengal Tenancy Act for settlement of fair rents of agricultural lands. The provision should extend to all lands which though not in urban areas are used for non-agricultural purposes. There are many instances of tenants holding lands under agricultural leases within municipal towns or big villages forming trade centres at the low agricultural rates and leasing them out in small parcels for the erection of jute godowns, shops, etc., at rates as high as Rs. 50 or Rs. 60 per bigha or even more. In the majority of such cases the lands were originally in rural areas and had been leased for agricultural purposes but subsequently the areas developed into big trade centres or towns and lost their rural character.

Q. 29. Yes; the main reasons are that lands are passing into the hands of non-agriculturists who do not cultivate lands themselves, and, secondly, as holdings are ultimately being split up by inheritance and sales, they are becoming of uneconomic size. The fact that bargadars and adhiars have no statutory rights has been no doubt helpful in increasing the tendency to bhag and adhi settlements. The Bengal Debt Settlement Act is very much hastening the process. As a result of the Act, moneylenders are not granting loans to agriculturists and when, therefore, the tenant needs money he has to sell outright at least portions of his holding. He generally becomes in such cases the bargadar under the purchaser. Other cases are:—

(*a*) In cases of new settlements of lands by zamindars, tenure-holders or *de jure* raiyats, the practice is to realise a premium for settling on cash rents. There is lack of cash and new settlements on cash rent are, therefore, smaller in number now and there is corresponding increase of settlement on bhag or adhi.

(*b*) Fall in price of food crops has the same tendency. A tenant is afraid of binding himself down to a fixed cash rent and prefers the sliding scale of the bhag or adhi system.

(*c*) Many holdings at high rates have been sold in court sales and no one is willing to take settlement of these at previous rates and where the zamindar is unwilling to bring down rates in the hope of better times, he lets out the land in barga or adhi.

(*d*) With increase of population the class of landless labourers has enormously increased and they are always very anxious to have some land to cultivate as bargadar or adhiar for getting their food grain.

(*e*) Continual subdivision of interest in a holding by the law of inheritance by which many individual cosharer becomes practically a landless labourer and he too is anxious to add to his income by cultivating lands in barga or adhi.

Q. 30. Please see reply to Q. 29. The suggestions in (*i*) and (*ii*) are correct. (*iii*) The occupancy right was originally a personal right, hence the occupancy holding could not be transferred. This was really meant for the preservation of this class of people who not only did not understand their own interests but were very low in the scale of life morally and intellectually, only with few exceptions. The social needs override individual needs. In matters like marriage or other social requirements, they spend a lot and generally far in excess of their means. The result is that they become indebted and are forced to transfer their holdings. Giving of free right of transfer temporarily eased the situation but is not a permanent remedy. There are many political and economic causes behind. Economic exploitation has been the root cause of the present troubles. If the poor tenants can weave their own cloths and manufacture their own salt as before there will be some relief. Economic and industrial developments will give them means of supplementing their income and are essential. The export of distress gold deprived the people of their last hording of money. In order to prevent further destitution of the cultivators, the object should be to devise means of restricting transfer instead of affording facilities for doing so.

Q. 31. Area normally held by a bargadar can be ascertained fairly accurately from the Appendices to the Final District Settlement Reports. The average will be 8 to 10 bighas.

The bargadars are mostly tenants with lands insufficient for their maintenance, who cultivate lands in barga to supplement their income and also include some landless labourers.

Q. 32. At first sight it seems that bargadars should have the occupancy right as they actually cultivate the lands but they are really glorified hired labourers and it is not advisable to extend the right to that class. They are hired labourers and should be treated as such. The only protection he needs is that he should get the stipulated share of wages and any attempt at cheating him out of a portion of it may

be made punishable. Any rigid rule about the proportion is undesirable. It should be regulated by the ordinary laws of supply and demand. There should also be corresponding penalty for a bargadar trying to cheat his employer by surreptitiously removing part of the produce. If they are given any right, it will be justifiable for all labourers to claim and get also rights in different spheres, e.g., a millhand in a mill, a tea-garden cooly in a tea-garden, and a house labourer in the house.

Q. 33. Considering that this system affords a means of livelihood to the landless labourer and also to small tenant having raiyati land insufficient to maintain him, it is an economically sound one and its extension should not be prevented. At present the barga settlements are made from year to year and the bargadar has no interest in improving the yield by using manures, etc. If he can be given leases for 2 or 3 years at least, there may be an inducement to him to take more care and try improvements. In order to encourage this, it is necessary to make it perfectly clear to all concerned that cultivation for a fixed period will not confer any right, as otherwise no one will be willing to let out for fixed periods. Giving occupancy right to bargadar will throw large quantities of land out of cultivation.

Q. 34. *See* reply to question 32.

Extension of right to the bargadars will lead the zamindars, tenure-holders and some classes of raiyat to let their lands lie fallow rather than lose control of them. The large number of bargadars who are mostly small tenants with insufficient lands and landless labourers will be deprived of their means of livelihood and considerable quantities of land will be waste and the owners of the lands, who now employ the bargadars will suffer loss of income.

(*See* replies to question 33.)

Q. 35. The proportion according to general custom is half. It should not be fixed by law and should be left to be regulated by the laws of supply and demand. In theory a zamindar or other employer of a bargadar may realise more than half but considering the present state of the country it can never be done in practice. The tenants have now organised themselves and just now their party are the rulers over the zamindars and the latter deserve protection more than the tenant. If a maximum limit is sought to be fixed by law, a minimum limit also ought to be fixed but any such attempt is undesirable.

Q. 36. It varies in different localities. In Rangpur and adjoining districts of North Bengal, the rate is between As. 4 to As. 8 per day and one meal.

Towards Burdwan and industrial centres it is as high as As. 8 per day during transplantation period plus one meal. At other times it is about As. 3 per day.

In Rajshahi it varies from As. 5 to As. 8 per day, the highest being in the transplantation season.

In Murshidabad it is As. 4 to As. 5 without meals.

In Mymensingh it is As. 6 to Re. 1 in the jute cultivating season.

The bargadars and under-raiyats are undoubtedly better off than the agricultural labourers and being possessors of land occupy a higher status in rural society.

Q. 37. Please see reply to question 30.

The answer to the first two questions is in the affirmative. Another prolific ground has been the Bengal Debt Settlement Act. No moneylender is now willing to lend money to a tenant on mortgage and whenever he wants money badly, he has to sell outright a portion at least of his holding. The moneylender is a necessary evil and his activities should be regulated and nothing should be done which may drive him out altogether.

The occupancy right was originally a personal right and therefore non-transferable. Unrestricted right of transfer was a move in the wrong direction and against the interest of the raiyat. Restrictions about such transfers to agriculturists only will be inoperative as very few agriculturists possess the necessary funds to acquire more lands. Some of the big tenureholders may have the funds but transfers to them will increase the number of bargadars or under-raiyats of other classes. If the field is thus restricted, value of land will deteriorate considerably. The tenants generally are illiterate and ignorant and have to be protected against themselves. The old rule about non-transferability seems to have been in the best interest of the raiyat. In cases of absolute necessity there should be some authority to decide this question. The suggestions made above are theoretically attractive but any attempt at giving effect to these is bound to meet with violent opposition from the very persons sought to be benefited, as tempers have been roused to such a pitch by incessant preaching of class hatred and zamindar-baiting in particular that cool reasoning can no longer be expected and the decision will be influenced by the passions roused and not by calm consideration.

Q. 38. Bighas 10 to bighas 15. The test should be as much as can be cultivated by one plough and one pair of bullocks. This varies from bighas 10 to bighas 15 according to the nature of the soil.

Q. 39. The replies to both the questions are in the affirmative. So long as the laws of inheritance remain as they are at present and the unrestricted right of transfer continues, there is no remedy.

Q. 40. Desirable—but not practicable on account of the Hindu and Mahomedan laws of inheritance and unrestricted right of transfer.

Consolidation should be made permissible whenever a tenant so desires and all lands with similar rights and interests may be amalgamated. Amalgamation should be for divided shares and should not be allowed for joint undivided shares as it will lead to confusion.

Q. 41. Yes—but the benefit will be of short duration. Under the operation of the laws of inheritance and as a result of the unrestricted right of transfer, fragmentation will commence very soon after consolidation. Facilities should be given to persons as well as to firms willing to start agricultural farms on scientific lines by mechanical ploughs and tractors. The number of such persons or firms cannot be many but they will serve as models. In order to make any such scheme successful, it is essential to have compact blocks. Those willing to undertake schemes like these may be helped by the Government.

Q. 42. As an abstract principle unequal distribution of wealth is undesirable. In other words, in theory communism is more advantageous to the masses than capitalism. Considering, however, the difficulties in the way, and the policy of the existing form of Government, it would be inconsistent to direct legislation for levelling up the inequalities in the case of agriculturists only. If the policy is changed and the process of levelling up is extended to all spheres, then only it may be consistent to attempt restriction against acquisition of large quantities of land by one person. Under present conditions it is desirable that effort should be made to promote collective farming. For the improvement of agriculture, co-operative collective farms may be started which will improve the methods of cultivation and give better crop outturns and such organisations may control marketing also and thus intercept the profit that now goes to middlemen. In this way alone, additional wealth can be secured for the tenants. There may be a marketing board consisting of elected representatives of these collective farms with some experts as co-opted members. The Central Board should be not only a Marketing Board but an advisory Board for all matters connected with cultivation. For instance they may decide which crop should be given preference in any particular year and as to what area should be sown with jute or sugarcane, etc. If the Central Boards and primary collective farms act efficiently, they may effect agricultural improvements and construct embankments and excavate irrigation channels by collective credit and collective effort.

With the same object in view, the promotion of large agricultural farms on scientific basis should be encouraged.

I am not in favour of legislative interference on the question of limit of the quantity of land to be held by any one. For the betterment of the condition of the masses, spread of education is essential so that they may help to improve themselves and attempt at eternal

spoon feeding and protection ought to be given up. A tenant is no longer the helpless creature he was in the olden days and he knows now how to assert himself and to organise for combined action. Unfortunately, however, these associations are concentrating their attention on politices which have a very remote and indirect bearing on the lot of the actual cultivators. The tenant will have to pay his rent whether the zamindar remains or goes and the channels in which the activities of the associations are now directed have no bearing on the immedate welfare of the members of it. Questions like crop selection, manuring, protective and irrigation works, marketing and promotion of cottage industries—in fact matters which may bring more wealth to the tenant, are not receiving any attention from the peasants' associations. Another direction in which these associations ought to take action is curtailment of expenses. With this object, cottage industries ought to be encouraged where there are facilities. I found that in the Sunderban reclaimed areas, the tenants are allowed to manufacture their own salt from the saline deposit on the soil but Government has imposed a limit to the quantity he may sell. It is not to the interest of the masses to have any such limit. Economic development is preached but in practice restrictions are put and many of the avenues by which the poor people can get some income are shut out against them. The present peasants' associations are all political organisations and not peasants' welfare associations but these are in their infant stage and may be expected to improve with experience. In any case, whether these asociations properly function or not, State interference will complicate matters and is undesirable.

Q. 43. Coparcenary is certainly detrimental to good cultivation but it cannot be minimised without interfering with the laws of inheritance. Economics generally deal broadly with two kinds of cultivation—extensive and intensive. In Bengal cultivation is extensive, but in the absence of scientific knowledge intensive cultivation is not possible. The people are poor and do their cultivation in the primitive way. Coparcenary gives rise to division into smaller and smaller holdings and generally, what is worse, to smaller and smaller fractional interests in the same holding. No amendment of the Tenancy Act can minimise the evil so long as the laws of inheritance remain unchanged. The economic forces that have arisen in the country and are arising should not be restrained without due care and foresight.

Q. 44. Nothing can possibly be done under the existing laws of inheritance. (*See* answer to question 43.)

Q. 45. No. The numbers of joint landlords are very often as many as 40 or 50 for one undivided fragmentary joint interest. The total number of cosharers in the entire estate very often exceed one hundred.

If a joint landlord fails to make collection he alone suffers and there is no occasion for State interference. It would be better if easier methods of partitioning and exchange were made available.

Q. 46. It was not contemplated by the Permanent Settlement that the rents of the khudkasht raiyats should be enhanced above the pargana rates and it was declared in section 8 of the Regulation I of 1793 that Government would protect the interests of tenants whenever necessary. Regulation VIII of 1793 was passed to give effect to this declaration and it was directed that the rents should be settled at the pargana rate and pattas given specifying the rates (*vide* sections 58 to 61). By sections 54 and 55 of the same Regulation the imposition of any abwabs or mathut was prohibited. In the great Rent case it was held that the rents of the khudkasht kudeemee raiyats "were, under no circumstances, not even on a sale for arrears of revenue, liable either to enhancement of rent, or eviction from their holding, so long as they paid the rents they had all along paid." Regarding khudkasht raiyats whose tenancy commenced subsequent to the decennial settlement it was held that "they were entitled to hold on at the rate which they have either expressly or impliedly contracted to pay, etc., and on a sale of arrears of revenue, they also are entitled to a renewal of their leases by a purchaser at the pargana rate." The decision of the High Court embodied their interpretation of questions of fact and the law as it then stood and was not an enunciation of any new principle.

In the case of paikasht raiyats and new settlements made of reclaimed lands, the zamindar was given a free hand. It was not the intention that the rents of resident raiyats should be enhanced above the pargana rate and in practice this was never done. The average rates of rent now prevailing in some districts were calculated in the Revenue Department from figures in final reports of district settlement and the results are noted in answer to question 8:—

The figures show that the rate of rent for occupancy raiyat is generally very moderate. There are no doubt instances of high rent, but these are invariably in the case of new settlements and that such instances cannot be extensive is shown by the low average of the district rates. Some extracts are quoted below from the Final Report of the District Settlement of Murshidabad completed recently (p. 116):—

"As far as I could judge from a somewhat intensive study of the conditions in the district, the charge ('melancholy errors of the Permanent Settlement') cannot in my opinion be fully endorsed. Rarely one meets a village where the tenancy has not continued for generations. It is easier to trace old connections of the peasantry with a village than that of the landlord. That the tenantry could hold to their

lands from a time prior to the safeguarding Bengal Tenancy Act is a proof that the circumstances were not so unfavourable as are sought to be made out."

* * * *

"The continuity of the tenantry from father to son for generations is a proof that in the largest majority of cases the terms were not unfavourable. The average rent-rate is about Rs. 3 and odd per acre. Judged by the outturn and the rent-rates in the temporarily settled estates in the province this is not high. Here, too, his terms cannot be said to have been harsh, while in every village one may get from any old tenant that in the majority of cases in the past, the relation between the landlord and the tenant was sweeter and much more friendly evincing greater goodwill on either side than what could be claimed to-day. If people's verdict be any evidence—to my mind there can be no better evidence—the position has gone from bad to worse in more recent times when tradition was lost and law was substituted to regulate the relation."

"My conclusion is that the Permanent Settlement as a fiscal measure did nothing to the detriment of the raiyats. It took away no rights which the tenantry then possessed, deprived them of no security which they otherwise had."

The description given above is typical and applies to all other districts of the province as the average low rates of rent still prevailing, as quoted in the statement in answer to question 8, amply testifies.

Q. 47. Fixity of rent was never contemplated at the time of the Permanent Settlement and the principle was quite unknown in the Moghul period and the early British period up to the year 1859. It was an innovation introduced for the first time in Act X of 1859. The first systematic revenue settlement of Bengal in Moghul times was that made by Todar Mall in 1582. He fixed a pargana rate for each pargana and his intention was that the resident khudkasht raiyats should be liable to pay rent at this rate. There were different rates for different crops and a tenant wishing to change his crop had to take the permission of the zamindar and enter into a fresh engagement. The non-resident raiyat was a tenant at will liable to ejectment whenever the zamindar pleased, and for him there were no special safeguards nor for new tenants. This idea underlay not only the Permanent Settlement but all subsequent tenancy legislation prior to the passing of Act X of 1859. The right of the khudkasht raiyat was a personal one and not transferable by sale or otherwise, but succession by inheritance was recognised. In Regulation VIII of 1793 provision was made for the interchange of pattas with khudkasht raiyats. Section 56 provided that it was desirable to settle the rent on the basis of the species of the produce likely to yield largest profit. "Where,

however, it is the established custom to vary the patta for lands according to the articles produced thereon, and while the actual proprietors of land, dependent talukdars, or farmers of land and raiyats in such places shall prefer an adherence to this custom, the engagements entered into between them are to specify the quantity of land, species of produce, rate of rent and amount thereof with the term of the leases and a stipulation, that, in the event of the species of the produce being changed, a new engagement shall be executed for the remaining term of the first lease, or for a longer period if agreed on; and in the event of a new species being cultivated, a new engagement, with the like specification and clause, is to be executed accordingly." In the great Rent Case the 14 learned Judges of the Calcutta High Court came to exactly the same conclusions. It was not contemplated that the pargana rate would continue to be the same till the end of the world and under all circumstances. The essential point is that rents for khudkasht raiyat should be paid at pargana rates. Mr. Grant has mentioned in his Minute that in those early days the price of rice was as. 8 per maund. More than 350 years have elapsed since the introduction of pargana rates by Todar Mall. Prices of food crops and all articles have gone up considerably since then. In a Minute, dated 29th November 1776, Warren Hastings remarked that "the price of coarse rice, which forms the principal consumption of the people, was five and a half times cheaper in the time of Sujah Cawn than it is now". (*Vide* page cccxviii in Firminger's Introduction to the Fifth Report.) In reference to this passage Mr. Firminger quotes the following Table:—

Table of the purchasing power of the Rupee:—

	At Murshidabad in Sujah Cawn's time. Mds. Sr.	At Calcutta 1776. Mds. Sr.
Rice, fine Bansephoot ..	1 10	0 16
First sort ..	1 23	0 18
2nd ,, ..	1 35	0 21
Rice, Coarse, called Dama	4 15	0 32
Rice, Coarse, called Mansurah	5 25	1 0
Rice, Coarse, called Kurkashalle ..	7 20	1 10
Wheat, First sort ..	3 0	0 32
2nd sort ..	3 30	0 35
Barley	8 0	1 13
Bhoot, a kind of grain for feeding horses (gram) ..	4 35	0 20 to 22
Oil, First sort	0 21	0 6¼
2nd sort	0 24	0 6¾
Ghee, boiled butter—		
First sort	0 10½	0 3
2nd sort	0 11¼	0 4

These prices are those prevailing at the two then biggest towns of Bengal. It was nowhere laid down that the pargana rate of Todar Mal was fixed in perpetuity. Such a conception would have been irrational. It is, moreover, a matter of history that jumma assessed by Todar Mal in 1582 at the pargana rates were added to from time to time. Various kinds of abwabs, like the twelve subadari abwabs, were added to the zamindar's jama from time to time and the zamindar was left free to distribute the addition to his jumma rateably on the raiyats. The amount of "Abwab Soubahadarry or Viceroyal Imposts, from 1722 to 1763,, amounted to Rs. 1,17,91,853 (for details *see* abstract No. 1 attached to Sir John Shore's Minute of 18th June 1789). There was no idea of fixity of the raiyat's rent in Moghul times. The rights of the raiyats were summarised by Sir John Shore in paras. 389, 406 and 407 of his minute referred to above. I have reproduced these paras. in answer to question 1.

Q. 48. As stated in reply to the last question, it was never contemplated that the rents of raiyats would be fixed in perpetuity. All that was intended was that the khudkasht raiyats will be liable to pay rents at the pargana rate but it was nowhere declared that the pargana rates introduced by Todar Mall in 1582 was fixed in perpetuity for all eternity. Such a supposition would be unreasonable. The paikasht raiyats were mere tenants-at-will and for new settlements also the zamindar had a free hand. The terms of paikasht raiyats and new raiyats were governed by contracts and what Lord Cornwallis was anxious to maintain was that no demands should be made beyond what was permissible according to the contracts. There was no intention to interfere in any way with the making of these contracts. An extract is quoted below from para. 2 of his Minute, dated February 1790, to illustrate this:—

"If Mr. Shore means that after having declared the zamindar the proprietor of the soil, in order to be consistent, we have no right to prevent his new abwabs or taxes on the lands in cultivation, I must differ with him in opinion unless we suppose the raiyats to be absolute slaves of the zamindar. Every bigha of land possessed by them must have been cultivated by them under express or implied agreement that a certain sum should be paid for each bigha of produce and no more. Every abwab or tax imposed by the zamindar over and above that sum is not only a breach of that agreement, but a direct violation of the laws of the country. The cultivator, therefore, has in such cases an undoubted right to apply to Government for the protection of his property and the Government is at all times bound to afford him redress."

The basis of the rights of the tenant was his contract and the avowed intention of Lord Cornwallis was to enforce the terms of the

contract and not to confer any new right on either party. This was implemented by sections 54 and 55 of Regulation VIII of 1793.

(*d*) Section 50(1) of the Bengal Tenancy Act was an innovation introduced for the protection of tenants as it was found that in practice it was impossible at such a long subsequent period to produce legal proof of the rate of rent prevailing at the time of the Permanent Settlement. The principle of fixed rent was an innovation introduced by Act X of 1859 for the benefit of the tenant on account of the difficulty of producing the necessary proof and action was necessary to make the provision operative, presumption was provided for, to help the tenant. The object of the legislature in providing for the presumption as to fixity of rent in this section was to provide an easy method of determination of the rights of the parties (Nityananda *vs.* Nanda Kumar 13 C.L.J. 115). The presumption, although it might in one sense be considered as a rule of evidence, is to the tenant in this province a cherished right granted to him so long ago as 1859 in consideration, it may be, of his general ignorance and incapacity to cope with the superior intelligence and ways and means of the landlord (Prithi Chand *vs.* Shaikh Basarat, 13 Cal. 30: 13 C.W.N. 1149: 10 C.L.J. 343). The rulings referred to above shows what has been accepted by the High Court to be the object of the section. There can be no presumption from this section that any such rule of thumb was contemplated by the promoters of the Permanent Settlement or that they had any idea of fixing rents in perpetuity.

(*e*) The intention of the Permanent Settlement in this connection was declared in the 3rd paragraph of section 7 of Regulation I of 1793:—

"The Governor-General trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment fixed for ever, will exert themselves in the cultivation of their lands, *under the certainty that they will enjoy exclusively the fruits of their own good management and industry*....."

It was not intended that the zamindar would enhance the rates of rent of khudkasht raiyats above the prevailing pargana rates. In fact provisions were made to guard against such a contingency by subsequent Regulations. It was however intended that the zamindar would enjoy the increase from introduction of new tenants for new reclaimed lands or by enhancements by contract from paikasht raiyats. As shown in reply to question 1, the assessment made at the Permanent Settlement was an advance assessment and the land was not then capable of bearing it as by the famines of 1770 and subsequent years more than 1/3rd of the population had died and about the same proportion of cultivated land had been thrown out of cultivation. Details

have been given in the same answer of the disastrous effects of the Permanent Settlement on the big zamindars in Bengal. The main reason was that it was not possible to increase population quickly or to bring the extensive areas thrown out of cultivation by famines into cultivation immediately after the Permanent Settlement. Zamindaris were therefore sold up year after year until they could manage to increase their income to some extent by increase of cultivation. It was never intended that the State would share in the profits of acts mentioned in para. 3 of section 7 of Regulation I of 1793 (*vide* portion in italies in the extract quoted above).

It may be pointed out that the State at the time of introducing Permanent Settlement took a broader view of things and had the ultimate object of increase in national wealth in view as that alone could make trade and commerce prosper. An extract is quoted below to prove this from the observations of the Hon'ble Court of Directors (Reproduced in para. 10 of Appendix 18 of the Fifth Report):—

"We find it convincingly argued, that a permanent assessment, upon the scale of the present ability of the country, *must contain in its nature a productive principle; that the possession of property, and the sure enjoyment of the profits derivable from it, will awaken and stimulate industry, promote agriculture, extend improvement, establish credit, and augment the general wealth and prosperity.*"

Q. 49. As stated in reply to questions 47 and 48 it was not the intention of the framers of the Permanent Settlement that the rents of the tenants then existing would be fixed in perpetuity. There were three classes of tenants at the time, namely, khudkasht kudeemee, the old resident tenants, ordinary khudkashts, created since the Decennial Settlement, and paikasht. The khudkasht kudeemee could hold his land so long as he continued to pay at the pargana rate. This pargana rate was not fixed in perpetuity. This class was not liable to eviction on revenue sale. The ordinary khudkasht was the new settler. He was made liable to eviction by purchase of the estate at a revenue sale. The intention of the framers of the Permanent Settlement regarding new settlers can be judged from their treatment of the ordinary khudkasht raiyat created since the Decennial Settlement and also from sction 52, Regulation VIII of 1793. The paikasht tenants were tenants at will.

It will be more reasonable now to revise the pargana rate or to fix rates for areas smaller or larger than a pargana according to similarity of quality and conveniences and to cut down or bring up all rates to this level. Large tracts, such as the barind or rarh areas are of uniform quality and the same rate should apply to all such areas.

In many places the old pargana rates are still geenrally in force. I can say this of Rangpur district but in districts where they are not traceable, new rates may be fixed.

It may not be possible to legally prove the connection between the existing tenants and those existing at the Permanent Settlement, but it can be said who are old resident tenants and who are new settlers from village tradition. The trouble is that when there is tension of feeling, people are not likely to tell the truth but ordinarily it is a matter easy to find out.

It will be seen from the table of prices quoted in reply to question 47 how enormously prices have risen now since the Permanent Settlement and it would be unreasonable to go back to the level of those days now, in fixing rent.

Q. 50. No. In the first place, the assumption that it was the intention that the rents of either class of raiyats should remain unalterable is wrong. Reasons in support of this assertion have been given in answer to questions 47 and 48. The tenancy legislation was all along for the benefit of the tenant. It was the intention ever since 1859 to give him new rights such as rights of reduction of rent for fall in prices, loss of area, flood, drought, deterioration, etc. A *quid pro quo* was necessary and the zamindars were given corresponding rights of increase of rent. The personal right of occupancy was transmuted into a transferable interest and privilege after privilege was added to it. If the idea is to restore the conditions as they prevailed in 1793, it may be necessary not only to cut down the rates in some cases but to cancel all the privileges given to the tenant since then. Such a retrograde measure is not possible now as the present surroundings are quite different from what they were in 1793.

Q. 51. It was not the intention of the framers of the Permanent Settlement that all future settlements of waste lands should be at the pargana rate (*vide* section 52, Regulation VIII of 1793). It was the avowed intention of Lord Cornwallis to preserve the sanctity of contracts. Extracts quoted and detailed reasons given in reply to questions 47 and 48 may be seen. The zamindar was declared the proprietor and he had full control over all lands subject only to rights created by himself by contracts. In those days areas available for cultivation were extensive but tenants were scarce and the zamindar could not afford to scare away tenants by imposing high rates. As the purchasing power of the rupee was then very high (*vide* table quoted in reply to question 47) and the rents were fixed in cash, they were for this reason very low.

Q. 52. (1) & (2). The systems are very difficult to work. The stumbling blocks are determination of the quantity of produce, the

value of the produce (it varies from month to month and some times from day to day and covers a wide range) and cost of cultivation. The amount of out of pocket expense of a cultivator is negligible but the value of his labour, cost of upkeep of cattle, etc., have to be calculated. On principle, the systems are sound but practical difficulties make them unworkable. Different Settlement Officers tried to calculate this with varying results.

(3) In spite of its disadvantages, this is most easily worked in practice and therefore desirable.

(4) On account of the present slump in market value of land the system will give abnormal figures now.

(5) Customary rates periodically revised according to the change in prices of staple products ought to give results satisfactory to both parties—the tenant and landlord—but it is a costly procedure.

(6) Most objectionable and should never be tried. In Cossimbazar estate at least in making new settlements, the rate of rent is never put to auction. Only the salami payable is put to auction.

Q. 53. It is not possible to answer this question without statistics. The productivity of the land is always taken into account. It is not my experience that in practice the rates differ greatly for lands of similar value in almost every village. Rack-renting is common in the case of under-raiyats but for *de jure* raiyats the rates are generally uniform. The majority may probably be described as lump rates, but they are always for a specified total area. For increase or decrease in area there ought to be provisions for increase or decrease in rent. According to High Court rulings, the principles laid down are unworkable and neither increase nor decrease can be proved except when there are registered documents.

Q. 54. (1) No.

(2) Customary rate, productivity, laws of supply and demand, quality of soil, marketing facilities, irrigation facilities, liability to floods and other natural calamities, and healthiness of the place. Malaria is depopulating villages in some districts and there is no demand for land in such places.

Q. 55. Yes; the principle will be uniform but rates will differ according to the class of soil, facilities for marketing, facilities for irrigation, prevailing prices of staple food crops, liability to natural calamities like floods, diluvion, drought, etc., and healthiness of the place. In districts which are being depopulated by malaria there are no applicants even if lands are offered free of salami and at quit rents. Lands in such districts are going out of cultivation and once populous villages are being converted to jungles.

Adjustment of rent cannot be done without a revision of the record of rights. Except in riparian areas where a fresh survey is essential, cost of revisional operations can be minimised by commencing from the attestation stage. There should be settlement of fair rents in these operations. Rates of fair rent for different classes of land will have to be determined first and then the village may be divided into different blocks, classified according to quality, and rents for all plots in a particular block, should be at the rate for that block. This was the practice in Bihar settlements but the system gave indifferent results as the Assistant Settlement Officers very often shirked their duty and avoided trouble by fixing rates after cursory inspection of a part of the village only. If the system is worked conscientiously it ought to give good results. Very close supervision by officers over the actual workings is necessary to ensure that correct rates have actually been applied to all plots and also that the calculations, plot by plot, are correct.

Q. 56. For cash rents it should be a sixth share of the average value of the produce as it is rigid and applies equally to lean years and good years. Half in case of produce rent as it operates on a sliding scale. Tenth share of the value of the produce may tend to increase existing rates of rent in some cases and lower in others. According to the Final Report of the Murshidabad District Settlement the existing incidence of settled raiyats' rent is about 4 per cent.

Q. 57. Rent should not be fixed in perpetuity. It may operate harshly both for the landlord and the tenant. The rents should be revised at intervals of 15 years. The revision should be on the grounds contained in the existing Bengal Tenancy Act. The needs of the State should certainly not be a ground for enhancement in any case.

Q. 58. No. It will be impracticable to calculate the income of an agriculturist and annual enquiries will be highly expensive and harassing and very liable to leakage and malpractices.

Q. 59. I do not consider the existing accepted principles and procedure for fixing fair and equitable rent to be defective.

Q. 60. It is true that the landlord does nothing in the case of improvement by fluvial action, but on the other hand the tenant also does nothing to earn the increase. The extra profit ought to be divided in the same proportion as in the case of the original rent in relation to the value of the produce. For instance, if the rent has been fixed at 1/10th of the value of the gross yield the extra profit by fluvial action ought to be divided in the same ratio, *i.e.*, landlord 1/10th, tenant 9/10ths.

It is not possible to judge slight improvements or deteriorations through fluvial action in lands already under full cultivation and in

such cases no enhancements or reductions should be allowed. But when there are marked changes, such as when lands which were completely unculturable or very partially culturable and the rates of rent were for that reason fixed low, and become fully cultivable through fluvial action, enhancement should be allowed. Similarly, when lands under full cultivation at high rates go out of cultivation through fluvial action there should be reduction.

Q. 61. No. The corollary to disallowing enhancements on account of rise in prices would be similar disallowance of reduction on account of fall in prices. Rigidity is harmful both to landlord and tenant.

Q. 62. The underlying principle involved in this question is unsound and will lead to absurd results. The rule should apply equally to all and individual need ought not to be taken into account. If rates of rent are adjusted on the basis of individual needs there will be confusion and injustice. For instance, a man who is the head of a big joint family with say 30 members may require not only the entire produce but some extra income from other sources and he may very well claim under this doctrine that he will pay no rent at all. On the contrary a man having no dependents ought to be liable for high enhancements. Such a doctrine cannot be worked in practice and is not rational.

Q. 63. There should be a law for reduction on the ground of prevailing rates and there is nothing objectionable against a corresponding provision for enhancement on the same ground. If a raiyat had made improvements long ago, he must have been fully compensated by the increased yield. Section 77 of the Bengal Tenancy Act gives full right to the raiyat to make improvements and when both the landlord and tenant want to make the same improvement preference is given by this section to the tenant. If the tenant effects an improvement and is ejected he is entitled to compensation (section 82). The tenant enjoys the full benefit of improvements made by him and the landlord cannot claim enhancement of rent for this. No special rule is necessary for improvements made long ago. Salami is not advance rent (Dinanath *vs.* Debnath 13 W. R. 307). It is paid in consideration of the lease granted and rights conferred. The finding of the High Court in the ruling mentioned above is to this effect.

Q. 64. Non-interference should be the rule and interference the exception, except under very special circumstances.

There should be no attempt at fixing rents for new settlements. The ordinary laws of supply and demand and the sanctity of contracts should not be interfered with. A rigid rule about rates of rent will retard progress. There are many factors to be considered in fixing rent and

it is not possible to take into account all these in a rigid rule. Result of any attempt at fixing rates for new settlements will be the levy of very high rates of salami.

Q. 65. I do not consider that the law is defective but the spirit in which it is generally administered gives rise to complaints. A good deal of discretion is left in the hands of the Revenue Officers and in matters like these such discretionary powers are essential. In practice, however, it is found that in Government estates and temporarily-settled estates there is always a tendency to look more to the increase in revenue than to the interest of the tenant. The officer has an eye to his preferment in future career and there is an impression that merit is judged by the capacity to increase the revenue and if an officer succeeds in doing so he will get his reward by special promotions to higher services. On the other hand in permanently settled estates there is generally a bias against the zamindar as in these the officer gets more credit if he can pose as the saviour of the masses by showing preference to them. There may be an improvement if the settlement staff is made permanent with a self-contained cadre on time scale so that the officers may be less liable to be influenced by considerations mentioned above.

Q. 66. The answer to the first part of the question is in the negative. The second part does not arise.

Q. 67. Revisional settlements of land revenue are invariably made with the object of enhancing revenue. This will be demonstrated if the results of the revisional settlements are examined. In every instance it will be found that there was a large increase.

Q. 68. No. The tendency is always in the opposite direction in the case of permanently settled estates but I have not got the records with me and I am unable to quote instances. An examination of the final reports of revisional land revenue settlements will throw light on this point.

Q. 69. No; because the tenants in such cases get the advantage of the lower prices to reduce rent. I have not heard of any legitimate grievance on this ground. Revisional settlements in permanently settled estates are unpopular as the tenants have to bear a portion of the burden. Land revenue settlements are not popular as they involve good deal of harassment for several years and some expenses not always legitimate—are unavoidable.

As a rule, however, revisional settlements should not be undertaken during a protracted period of depression as the recovery of cost becomes burdensome in such years.

Q. 70. I have no information on this point but, I think it is due to the situation of land, and market facilities.

Q. 71. The rules in the Tauzi Manual about remission and abatement of land revenue in permanently settled and temporarily settled private estates are inoperative not so much on account of any inherent defect in the rules but as a result of practical difficulties and the spirit in which they are administered. The rule is that the zamindar will give the same relief to the tenureholder or tenant as he himself gets. For example, if half his revenue is remitted, he will remit half the rent due for that year. One great difficulty is in estates in which there is considerable subinfeudation. The zamindar can extend the concession to the man from whom he gets his rent, *i.e.*, the tenureholder of the 1st degree but it is impossible for him to see whether the tenureholder of the 1st degree is extending the concession to the one immediately below him and the latter again is passing on to the one next below and so on throughout the chain until the cultivating raiyat is reached. One solution may be to tackle the man at the top—the zamindar—and the one at the very bottom, the cultivating raiyat. Whenever Government grants remission to the zamindar, Government may issue a proclamation in the villages to the effect that the rents of the tenants for that year also are remitted in the same proportion as the revenue of the zamindar. The law may be slightly amended to give the Government the necessary power to remit rents of tenants in the same proportion as Government revenue and also to restrict Civil Courts and Certificate Officers from decreeing or realising any part of the amount so remitted by a proclamation, either on behalf of a zamindar or tenureholder of any degree.

It will be found that famine after famine has passed and test works were opened but no relief has ever been granted to zamindars or tenants under them. The rules in the Famine Code are evaded by refraining from declaring a famine and declaring a state of scarcity only. If famine is declared, elaborate measures have to be adopted which are not only very costly but throw very heavy work on District Officers who generally do not relish such a prospect.

There are zamindaris in which subinfeudation is negligible and in which, therefore, the difficulties of transmitting the concession to the raiyat do not exist. Even in such estates no remission of revenue has ever been allowed.

In general administration there is always an eye to the revenue, an unexpected diminution in receipts from which may upset the budget and so far as my experience goes, remissions in Government estates are very grudgingly given and not to the full extent.

No amount of modification of rules will bring about an improvement until the point of view and spirit of the administration is changed. The *sole* consideration should be the welfare of the masses and not the effect on the budget or the wrath of the Finance Department.

Q. 72. (1) *Jute.*—Average yield is 12 to 15 maunds per acre.

Cost of cultivation—2½ rupees per maund. Ordinary expense per acre is about Rs. 30.

(2) *Paddy.*—Average yield 20 maunds per acre.

Cost of cultivation—By hired labour it is estimated between Rs. 5 and Rs. 10. In the case of a cultivator who cultivates with his own plough and cattle and does not employ hired labour, he incurs no out of pocket expense except the price of seed.

(3) *Sugarcane.*—Average yield is 600 maunds.

Cost of cultivation about Rs. 60 first year, in the subsequent years, half, *i.e.*, Rs. 30. In districts like Burdwan a good deal of expenditure has to be incurred on irrigation—the cost being estimated at the rate of Rs. 30.

The estimate of cost given above is based on reports obtained from the Circle Superintendents of this estate. It is a curious coincidence that exactly the same figure is given in the Final Settlement Report of Murshidabad. A detailed calculation of the cost at every stage will be found on page 318 of the Report.

Q. 73. The answer to the first part of the question is in the affirmative. The reason is that manure is seldom used and the lands are becoming exhausted. Government have taken no steps worth mentioning. The Agricultural Department took some action towards proving to the tenant that cowdung manure gives best results if collected in pits. The effort was, however, sporadic and spasmodic and the result attained is negligible. So far as I am aware, no attempt has been made to popularise chemical manures. Distribution of improved seeds has been done to a certain extent specially in the case of paddy. It was, however, not done systematically in the entire province. In dealing with common pests the Agricultural Department is thoroughly inefficient and no help can be obtained from it. Except as a relief measure in times of scarcity, seeds or manure are never distributed free by Government nor advice given. No serious attempt has been made to improve the breed of cattle. Stud bulls are occasionally kept by district boards and also by jails but they are hardly accessible to the masses. The value of irrigation also needs demonstration. In Rangpur district potato is grown but the fields of potato are never irrigated and the potatoes grown under such conditions generally

attain the size of a marble and the yield is small. Another direction in which action ought to be taken is growing of additional crops to bring additional income. For instance, *kalai* or other pulses can be grown in paddy fields after winter paddy but the universal trouble is that the custom is that cultivators let loose all their cattle in the fields after paddy harvest and it is impossible to grow any crop after paddy. Stall-feeding of cattle is expensive but by joint action certain fields may be set apart by rotation every year for cattle grazing and crops grown in the rest. The tenants are very conservative in matters connected with cultivation and are averse to doing anything which their forefathers never did and they need guidance and expert advice. Government can do much to improve the lot of the cultivator apart from distribution of seeds or manure.

Q. 74. *Land Improvement Act.*—Very little advantage has been taken of it by the tenants. They are as a rule heavily indebted and do not wish to incur further debts. Zamindars from time to time want loans under the Act but they are difficult to obtain specially on account of inadequate budget provision.

Bengal Sanitary and Agricultural Improvement Act.—The first Act passed was very defective and therefore inoperative. Some advantage has been taken of the amended Act but not to any large extent.

Bengal Rural Development Act.—Practically a dead letter. Systematic propaganda is necessary in the early stages to make the provisions generally known. District Officers and Subdivisional Officers are the best agencies which can be utilised for actions under the Act until the benefits of it become known to the public. The agency of the Agricultural Department may also be utilised.

The Acts are not utilised as the people lack initiative and are very conservative. Cultivators as a rule do not want to do any thing which their forefathers did not do. Illiteracy is a great evil. The aim should be to popularise all the acts mentioned above and to induce union boards to take the initiative. Intensive propaganda by Government is necessary and in the beginning the initiative should come from the Government.

Q. 75. I have no information on these points.

Q. 76. I have no information regarding the first two questions.

As regards expenditure on improvement, there is a rigidly fixed percentage which is adhered to and all receipts from salami or any other source, such a sayer revenue are treated as land revenue and is spent on general administration or other State purposes. Receipts of salami are never earmarked for improvement.

Khas Mahal Report, 1938, by Mr. M. M. Stuart, I.C.S., Special Officer, shows that salami is realised in Government estates but he recommends that in case of diluviated lands the rate of salami should be reduced (p. 30).

Q. 77. The general policy of Government is responsible to a great extent for the uneconomic condition of the raiyat. The free right of transfer has done great mischief but the greatest mischief has been done by the Debt Settlement Act which has deprived the raiyat of the last vestige of credit. The general policy of the Government has made the tenant more improvident than what he was before. The idea has gained ground that if sufficient clamour is made Government will make any concession. The habit of payment of just dues when the tenant is in a position to pay has been completely lost and as a result of this all Co-operative Credit Societies, Loan Offices, Agricultural Banks, etc., have been wrecked. The source from which all these bodies used to get their capital—the middle classes—has been choked up. The village mahajan is a necessary evil but instead of trying to moderate his evils he has been driven out altogether. The zamindar has been deprived of his means of speedy recovery of legitimate undisputed dues by suspension of certificate procedure, and the result is that heavy arrears are accumulating and the burden will be too heavy for liquidation in future. Conditions now are chaotic. Attention ought to be concentrated on finding out ways of increasing the wealth of the masses and Government should, therefore, be in the interest of the people. This means that economic development in the interest of the people is essential. I may suggest the following as an illustration of the general proposition made above:—

(1) Introduction of additional crops and improving methods of cultivation by irrigation, use of improved seeds, manuring, etc.

(2) Marketing facilities to give a better return to the cultivator for his crops. My idea is that there should be combines or co-operative credit associations of the peasants to control the sales on the lines of the Rajshahi Ganja Society. There should be primary associations with 1 or 2 of more homogeneous villages and Central Boards above them and a Provincial Board on the top. Both paddy and jute may be controlled like this. The main object is to absorb the profit now enjoyed by middlemen.

((3) Promotion of cottage industries, specially spinning and weaving for home consumption.

(4) Improvement of sanitation and drainage.

(5) Rural development. Clearance of water hyacinth will not only provide employment for a large number of people but improve both sanitation and communications. Works like these can be undertaken

under the Sanitary and Drainage Improvement Act; the tenant and middlemen paying in proportion to the advantage. Nobody wants to take the initiative as it involves too much labour and the busy District Officer and Subdivisional Officer can hardly find time for such works. The work ought to be taken over by the Agricultural Department. Agricultural Department needs expansion and when expanded can take up items 1, 2, 4 and 5, 6, 7. The Industries Department can take up 3. The other items may be taken up by the respective departments of the Government.

(6) Improvement of tank and fisheries on scientific lines.

(7) Improvement of cattle.

(8) Establishment of a credit system through land mortgage banks or otherwise.

(9) Improvement of communications and arrangements for transport of produce to markets.

(10) Supply of drinking water and water for cattle.

(11) Spread of primary education.

(12) Establishment of dispensaries both veterinary and for the people through local bodies and with Government aid, when necessary.

In most of these there should be co-ordination of the activities of the Government, local bodies and the zamindar. Government may draw up general schemes and declare what help they expect in connection with each from local bodies and how much they propose to do themselves and to see that each does his share.

It is essential that the tenants should be trained to habits of punctual repayment in order that their credit may be rehabilitated and the institutions from which they used to get help may function once more. All these institutions and zamindars should be given power to realise their dues promptly. Until credit is re-established, economic development is not possible. Steps for increasing the wealth should be taken simultaneously.

Q. 78. (*a*) About Rs. 150 per annum for an average family of five with an economic holding growing paddy only. Sometimes there are incomes from side crops.

In para. 119 of the Murshidabad Final Report it is stated that incidence of rent represents 4 per cent. of the total value of crops. In para. 124 the average size of a holding is given as 5·25 of which 5 per cent. remains fallow. Net area on this basis is 5 acres. The value of the total produce on these figures works out to Rs. 375. This seems to be an overestimate. If the average yield of paddy is taken at 15 mds. per acre the yield of 5 acres should be 75 mds. and the value

about Rs. 150. This is for an average family of 5, the individual income being Rs. 30 per annum or about As. 1-4 per head per day. Where there is good crop the tenant can meet his bare requirements but has no reserve for emergencies like sickness, etc. The position is better in jute districts and in districts where other valuable crops are cultivated and also where the majority of lands is twice or thrice cropped. At a rough guess it may be said that about 50 per cent. of the cultivators can maintain themselves from their crop.

Q. 79. The present system and organisation for the preparation of land records is adequate. They are properly maintained in khas mahals and wards' estates. One difficulty experienced is that if mutations are noted in the printed records the civil courts generally decline to accept such corrected records in evidence. In order to satisfy the courts a double set of records are necessary but the expense of that would be prohibitive. The law may be amended to make such corrected records admissible in evidence. Maintenance may be made obligatory on private zamindars if given the power of certificate procedure by law but this will be operative only in districts where the records are of comparatively recent date and also only for tenants directly under the zamindar and in other cases only in respect of tenureholders of the 1st degree. It will not be possible to maintain the records of tenants under tenureholders.

It is possible to maintain the records by noting all changes but it will not be possible to note the crops of each plot each year. When a zamindar gets his rents from a tenureholder, it is impossible for him to get information about tenants under tenureholders.

Q. 80. Please see reply to question 77.

I have recommended items (*i*) to (*iv*) and several other measures.

I do not think that cattle insurance will succeed. The cattle are kept under such conditions and moreover they are liable to sudden wholesale death by floods and necessarily, therefore, the premia will be very heavy and a tenant will never agree to pay it.

Q. 81. The answer to the first part of the question is in the affirmative.

The second part cannot be answered in the absence of statistics. It is very easy to calculate the surplus population from available reports—

(1) Take the agricultural population from the last census reports including rent receivers and rent payers and agricultural labourers.

(2) Take the net cropped area either from the statistics of the Agricultural Department or by adding from the Final District Settlement

Reports as far as available. For the districts for which settlement is still in progress (Rangpur, Dinajpur, Howrah) the proportion of net cropped area to total district area may be taken in the same ratio as the average for districts for which such reports are available.

(3) Take a family of 5 as the unit for a holding of bighas 15 or bighas 20.

(4) Work out how many such families are required for cultivating the total net cropped area.

(5) Deduct the figure obtained in (4) above from the figure in (1) and the result will be the surplus population.

Q. 82. Establishment of industrial concerns is one solution but attention should also be directed on the points mentioned in reply to question 77. Establishment of industrial concerns will help the landless labourers and the small tenant but employment cannot be found for sufficient numbers to relieve the bulk of the cultivators. For them, attention should be directed to the points mentioned in reply to question 77.

Q. 83. Stability of tenancy legislation and debt legislation is essential. Frequent amendments to tenancy laws and Debtors Acts have made the tenants lose all credit. No improvement in the credit system can be expected so long as present conditions continue. The Acts meant to protect the tenant are damaging his credit and at present he has practically no credit. All organisations have been dislocated as a result of this loss of credit and the direct encouragement given to the tenant-debtors not to pay their dues. All the co-operative credit societies, which were at one time functioning efficiently, are now in a moribund condition. The village mahajan has been hard hit and is no longer willing to advance loans and the tenant has to sell part of his land to raise money. The debt settlement boards have made matters worse. There were at one time over 100 loan offices in Rangpur district, all of which have suspended payment in consequence of which the middle-class people who had put money in them have lost all their hard-earned savings and a very important source from which capital could previously be obtained for agricultural credit has been completely lost. Co-operative credit societies also used to get a considerable portion, if not the bulk, of their capital from deposits by middle class people. For these societies also this source is now completely dried up. By recent legislation all the efficient organisations that existed have been killed. In all legislations both sides of the question ought to be examined. It must be recognised that the village mahajan is a necessary evil and indispensable. His abuses should be controlled but he must be given reasonable facilities to realise his just dues if it is intended to maintain this institution. Similar facilities for realisation

ought to be given to the co-operative societies, loan offices, agricultural banks, etc. One sided legislation destroys credit. Debt settlements should be on equitable lines and on fixed principles and it should not be left to the whim of the ill-educated and ignorant President of a Board to do what he pleases.

Q. 84. I have no statistics to check the percentage mentioned. The only remedy is to fix the maximum rate of interest. The question does not arise now as the village mahajan, co-operative credit societies, loan offices, etc., have all stopped granting loans and the tenant has to sell his land in order to get money. The drain has been stopped but the tenant is being and will be sold out. Agricultural credit must be rehabilitated and consideration of questions relating to the defects of such organisations is useless now. When such organisations come into existence again, their workings may be regulated and defects cured.

Q. 85. If the societies had been backed and realisation of their dues enforced and a habit of repayment of debts inculcated, they would have been very useful. The rate of interest charged by the co-operative societies is not too high in view of the rates at which they themselves have to raise capital. The societies have practically ceased to function as all their capital is frozen up. There are some debtors who are unable to pay but the majority are in a position to pay but will not pay as they are confident that Government will always extinguish their debts by a stroke of legislation or executive order. I am not aware of a single society which succeeded within the short time it functioned in clearing the debts of its members. If these societies had been helped to grow, such a result might have been attained in time but being frozen up they are practically non-existent. The bulk of the capital for these societies used to come from private depositors but as they have practically lost all their investments, no one is likely to invest in them any more and it will no longer be possible to tap this source for capital to finance such societies.

Q. 86. Debt Settlement is operating very badly. The principal defects are—

(1) Paucity of suitable men for the post of President.

(2) Inordinate delays. Presidents are sometimes deliberately sitting over cases as they themselves or their near relatives are debtors. Delays of over 1 year are very common. The creditor has to attend every day, a number of Boards, only to be told that the case is adjourned. No reasons are generally given for these adjournments. Sometimes they are due to want of a quorum but generally because the President tries to put off the evil day as long as he can.

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(3) There are no fixed principles in fixing instalments. Government ought to lay down general principles. For instance, in the case of rents, Government should declare that out of the instalments fixed rent should be paid first along with the current rent.

(4) Another defect is in the method of service of notice on the creditor. The procedure for it is not prescribed. It is sent by ordinary post and if for wrong address or wrong description of the name the notice does not reach its destination the creditor gets no information and the case is decided exparte. The Boards never satisfy themselves that the notice has been served. The tenants seldom know the names of all the co-sharer landlords and the bulk of them get no notice.

(5) The law does not say what should be the remedy for co-sharers who are not named by the debtor and therefore on whom no notices are issued at all and who get no information. In the first place notices should be issued by registered post with "acknowledgment due". The case should not be heard until acknowledgments are received. Co-sharers to whom notices are not issued should not be bound by the decisions and should be at liberty to re-open the case when they come to know of the proceeding.

(6) Section 8 (1) provides that the debtor may file applications before the Board having jurisdiction over the place where his property is situated. In the case of rents this gives a handle to the debtor to harass the landlord. For instance in the case of mauza Frasergunge in the Sunderbans in 24-Parganas district, most of the big jotedars are people of Midnapur, Calcutta, etc., and they have filed applications before Boards in Midnapur district in different places like Tamluk, Contai, etc., and it is difficult for the Tahsildar at Frasergunge to produce the necessary papers and other evidence in so many distant places. For rents, the jurisdiction should be of the Board constituted for the area in which the land is situated.

(7) No guiding principles are laid down in the Act to decide the proportion in which the debt is to be cut down. It may be laid down that all compound interest should be disallowed and the rate of interest cut down within limits which should be prescribed by the Act. Some indication should also be given of the period to be allowed.

Q. 87. They will be failure unless punctual repayment is made obligatory. At present the tenant has no credit and such banks will be more like benevolent charitable institutions rather than business concerns. In order to make them function they must be relieved from the jurisdiction of Debt Settlement Boards. The impression now common is that all debts and even arrears of rents can be wiped out by executive order or legislation, if sufficient clamour is made. Last month a crowd of about 1,500 people came to Rangpur to see the Collector.

Their prayer was wiping out of arrears and reduction in rates of rent. No Government Official has the courage to say that the arrears cannot be wiped out. So firm is the idea in Rangpur district that tenants who are in a position to pay are withholding payment as they fully expect that all arrears will be wiped out by Government and it is more profitable to accumulate arrears. So long as ideas like these are common, no bank can function. People won't repay in the expectation that Government will clear all debt by legislation. Contracts now are scraps of paper.

Q. 88. So far as I am aware these banks also are not functioning as their prosperity, as in the case of co-operative credit societies, depends upon free circulation of money for which punctual repayment is essential. If capital is frozen up, no bank, or co-operative credit office, or loan office or mahajan can continue to function.

So long as punctual repayment cannot be enforced, there can be no improvement.

Q. 89. The machinery available for amicable realisation is not costly or cumbrous but the procedure for realisation through civil courts is cumbrous and more costly to the tenant. The reason why the tenants hate certificate procedure is because it is effective. Mr. M. M. Stuart, I.C.S., who was appointed Special Officer to investigate the conditions prevailing in the khas mahal came exactly to the same conclusion. An extract from page 8 of his "Khas Mahal Report", 1938, is quoted below:—

"When the debt of one person to another is not in dispute it has been considered unnecessary to use full civil court procedure for its realisation. The existence of a settlement record has normally put the existence of the debt of rent beyond doubt. It is not on account of injustice that certificate procedure has become so unpopular but on account of its greater efficiency."

Again on page 10 of the Report:—

"The chief advantage the tenant had in zamindaris was being able to get into arrears."

It may be explained that in realising rent through a civil court, a plaint has to be filed and the amount payable is determined and there is a decree. Separate application has then to be filed for execution of the decree. In certificate procedure the certificate is equivalent to a decree and the proceedings therefore starts from the decree stage.

The greatest harassment and increase in costs both in rent suits and certificate cases are due to the extreme degree of corruption that prevails among court peons. At every step he has to be paid something. For service of notice there are fixed rates. A report of personal service can be obtained without stirring out from headquarters by satisfying the

peon. If a peon does not get his perquisite, service will never be personal. If a distress warrant has to be executed he must be paid sufficiently. If the judgment-debtor outbids the plaintiff and pays more than what the latter has paid, the distress warrant will be ineffective or very partially so and the distress warrant will be issued over and over again increasing the cost. There is nothing to choose between the civil court peon and the certificate peon. So long as there are persons to tempt the peon for gaining undue advantage the evil cannot be checked. Executive action alone cannot eradicate it unless there is public opinion to back it and bribe giving is taken as seriously as bribe taking.

Q. 90. The answer to the first part of the question is in the negative. As was found by Mr. Stuart, the Special Officer, it is so unpopular because it is effective. He came to the conclusion after extensive local investigations. Please see extracts from the report quoted in answer to last question.

Summary procedure like certificate procedure should be allowed when there is no dispute about the demand.

Q. 91. Most of the laws have been explained and fought and they have reached a settled condition, so the codification should be according to the different rulings of the High Courts and in such a way as may not create again an unsettled condition. Codifying them in a new form or the repeal and replacement of the old Regulations and earlier Acts are not necessary for the same reasons.

Q. 92. Impossible to answer within the time allowed. At least 6 months' time is necessary to investigate this and give opinion in detail.

Q. 93. So far as the Cossimbazar Raj Ward's Estate is concerned the annual loss is:—

		Rs.
1342 B.S.	...	17,426
1343 B.S.	...	17,437
1344 B.S.	...	17,520

Average Rs. 17,461 per annum.

Considering that the rent roll of the portion of the estate in which collections are made directly from tenants is Rs. 13,20,721 the amount of loss is not considerable.

The estimate of loss to landlords is 8 to 12½ per cent. of their gross income.

The economic effect of the Tenancy Amendment Act of 1938 on tenants, has been that the tenantry is being taught non-payment of their dues by different Acts, viz., Bengal Agricultural Debtors Act, Bengal Tenancy (Amendment) Act of 1938, Bengal Moneylenders Bill of 1939, etc., and the tenants are losing all credit.

Reply by the British Indian Association.

Calcutta, the 17th January 1939.

From—S. C. Ghosh Maulik, Esq., C.I.E., and P. N. Singh Roy, Esq., Joint Honorary Secretaries, British Indian Association, Calcutta,

To—M. O. Carter, Esq., M.C., I.C.S., Secretary, Land Revenue Commission, Bengal, 8, Clive Street, Calcutta.

We are thankful to you for sending us a copy of the questionnaire issued with your Circular No. 1, dated the 15th December, 1938, inviting replies thereto on or before the 17th January, 1939.

The questionnaire, our Committee finds, though not comprehensive, takes note of the growth of the land system through various tenancy and other legislations. The problems raised are grave and have direct relation to the historical, social, and economic forces of the last century and a half. In submitting the reply within the time-limit of one month, our Committee felt great difficulties whereunder it had to work. The Committee does not claim that it has been able to devote its attention equally to all the questions. In many cases, details could not be worked out; in others, only a fringe of the problem has been touched. Nevertheless, it has tried to do all that it could in the circumstances. It has discussed and examined the questions in their logical bearings without any pretension to sweeping generalisations.

Our Committee had to work under a heavy sense of responsibility. In the business of agriculture, landlords are the dominant partners, but their rights have been crippled from time to time. To present the case of landlords is at once difficult and delicate; the time chosen for the investigation of the land problems, so vital for the province, is not also opportune. It is to be recognised that the time-spirit is working to the prejudice of the landlord-tenant system; destructive doctrines are finding support in the programme of political parties; the principle of private property is being discounted; the agitation in the country-side is putting obstacles in the path of harmonious development and orderly progress. In this background of hostility and indifference, the land system is working. The system is criticised not necessarily for its defects but in pursuance of an ideology, hostile to and subversive of the given basis of class relations. We are sure that the Commission will hold the scales even and judge the system and make suitable recommendations so that it may smoothly function in the collective interest

of the nation. The Committee, however, submits its replies with a view to providing the Commission with materials for an adequate evaluation of the prevailing land system.

Regulations of 1793 to be taken as a whole.

Q. 1. The Permanent Settlement of 1793 forms the basis of the land system of the province of Bengal. To assess its importance and significance, the objects sought to be achieved and the rights specifically granted should be clearly understood. On a true appreciation of the objects set out, and the rights confirmed, depends the adequate evaluation of the Settlement. Before our Committee proceeds to explain the rights and obligations of zamindars and raiyats, it likes to emphasise the point that Regulation I of 1793 does not exhaust the contents of the Permanent Settlement of Bengal; it is the basic declaration which is to be supplemented by other written Regulations and unwritten usages of the country. On the 22nd March, 1793, the Governor-General in Council issued a Proclamation notifying to all the zamindars that the jama assessed upon their lands under the rules for Decennial Settlement was fixed for ever and that they were thenceforth to consider themselves proprietors of the soil. Within six short weeks from the date of this Proclamation—on the 1st of May 1793—forty-eight Regulations were passed by the Governor-General-in-Council, the first enacting into a Regulation the several Articles of the Proclamation and the whole constituting a comprehensive code for the fiscal and judicial administration of Bengal. The respective interests of zamindars and raiyats in the lands under the Permanent Settlement can only be determined by a collation and critical examination of the various provisions of the Cornwallis Code, but there were left numerous matters, especially those concerning the rights of cultivators, where the Regulations had been purposely silent leaving them to be ascertained by reference to customs and usages. To understand the Permanent Settlement aright, both written Regulations and un-written usages shall have to be determined with scientific precision.

The rules for the construction of Regulations were provided in Regulation XLI of 1793 which were in conformity with English maxims: (1) that one part of a Regulation is to be construed by another so that the whole may stand; (2) that if a Regulation differs from a former Regulation the new Regulation virtually repeals the old one as far as such difference extends, provided the new Regulation is couched in negative terms, or by its matter necessarily implies a negative; (3) that the rescission of a Regulation which rescinds another revives the original Regulation.

Custom to determine the rights left indefinite.

To know the express law on the subject the entire Regulations of 1793 shall have to be looked into;[1] to know matters where the Regulations are silent, customs shall have to be relied on. But the rights which have been determined stand undisputed, and in the absence of express provisions of law, custom which is the "ever surviving law of the East" will determine the rights and interests, left indefinite. Sir Henry Maine observes that "the foundation of a custom is habitual practice, a series of facts, a successsion of instances, from whose constant recurrence a rule is inferred." This view of the case is essential for understanding the rights and obligations of zamindars and raiyats, derivable from the Permanent Settlement of 1793.

Our Committee finds that some of the objects of the Permanent Settlement are recited in the question under reply; they are extremely inadequate so as to hamper a correct perspective of the Settlement. The Settlement was rendered inevitable for fiscal, administrative and revenue purposes; it was also necessary for the sake of establishing and stabilising British Empire in India. The Committee does not propose to detail the objects of the Settlement at this stage, but it must be recognised that it was not a hurried measure, nor was it the outcome of the gasping and short-sighted policy of a Provincial Government; but it was deliberately imposed by the highest authority as the only best method in broad-basing the Administration upon the principles of justice.

Rights and obligations conferred by permanent Settlement on zamindars.

The Committee begs to state below specifically some of the rights and obligations of the zamindars conferred by the Permanent Settlement, which are not referred to in the question—

(1) The zamindars were confirmed as "proprietors of land" (sections 2 to 8 in Regulation I of 1793); their right was declared to be "proprietary right" in section 6, Regulation I, and "property in the soil" in section 7, Regulation VIII of 1793, whereas talukdars had no such right and were not, therefore, entitled to a separate settlement (section 7, Regulation VIII).

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[1]"In a word, it is to be taken as a fundamental principle that the intention of the legislature is invariably to be accepted and carried into effect, whatever may be the opinion of the judicial interpreter, of its wisdom on justice. If the language admits of no doubt or secondary meaning, it is simply to be obeyed. If it admits of more than one construction, the true meaning is to be sought, not on the wide sea of surmise and speculation, but from such conjectures as are drawn from the words alone, or something contained in them; that is, from the context viewed by such light as its history may throw upon it, and construed with the help of certain general principles and under the influence of certain presumptions as to what the Legislature does or does not intend."—P. B. Maxwell's "On the Interpretation of Statutes."

(2) The revenue payable by them was permanently fixed (sections 3 and 4, Regulation I).

(3) They were empowered to transfer their property by sale, gift or otherwise without the previous sanction of Government (section 9, Regulation I).

(4) They were confirmed in their possession of the nankar, khamar and nijjote lands, whether they accepted the Settlement or not, provided they paid the apportioned revenue (section 39, Regulation VIII).

(5) Those who finally declined to accept the Settlement were allowed a malikana in consideration of their proprietary rights (section 54, Regulation VIII).

(6) They were empowered to "let the remaining lands of their zamindaris or estates, under the prescribed restrictions, in whatever manner they may think proper" (section 52, Regulation VIII).

(7) They were ordered to revise and consolidate all the existing abwabs and mahtoots with the "assul" rent into one specific sum (section 54, Regulation VIII).

(8) They were ordered to grant pattas to raiyats for a period not exceeding 10 years and to determine rents in specified modes (sections 56 to 60, Regulation VIII, and section 2, Regulation XLIV of 1793).

(9) They had the power of ejecting all raiyats khudkasht or paikasht, having a right of occupancy or not, but not having "right of property or transferable possession" for arrears of rent even without recourse to law (*vide* clause 7, section 15, Regulation VII of 1799).

(10) Their power to summon and, if necessary, to compel the attendance of their tenants was maintained (clause 8, section 15, Regulation VII of 1799).

(11) They were invested with the powers of distraint of not only the produce of the land but of all personal property and cattle of the defaulting raiyats (section 2, Regulation XVII of 1793).

(12) From 1799 they were empowered to realise rent from under-tenants and dependent talukdars by summary arrest and summary sale of the undertenures (sections 14 and 15, Regulation VII of 1799).

(13) From 1812 they were free to grant leases for any period of time or perpetuity (section 2, Regulation V of 1812).

(14) Phulkur, Bankur, Jalkur belong to the proprietors (preamble to Regulation XXVII of 1793).

(15) Purchasers at revenue sales got the estates free of all encumbrances and engagements with talukdars, tenants, and raiyats, and were entitled to receive "whatever the former proprietors would have been entitled to demand according to the established usages and rates of the pargana or district" (section 5, Regulation XLIV of 1793).

The Regulations define in their own way the rights and obligations of zamindars, and the rights of raiyats, mostly undefined, must be subordinate to the rights of zamindars. Raiyats thus do not prove to be the dominant partners.

Provisions of Regulations regarding raiyats.

The main provisions of the Regulations with regard to raiyats were as follows:—

(1) Raiyats are mentioned in Regulation I of 1793 only with reference to "good faith and moderation" of para. 3, section 7, and "protection and welfare" of clause I, section 8.

(2) The disputes between landlords and raiyats are referred to the Civil Court (preamble to Regulation II of 1793 and section 59, Regulation VIII).

(3) The abwabs are to be revised and consolidated with the "assul" rent into a specific sum (section 54, Regulation VIII).

(4) No new abwab or mahtoot is to be imposed on the raiyats (section 55, Regulation VIII).

(5) Landlords and raiyats will find it for their mutual advantage to enter into agreements in every instance for a specific sum for a certain quantity of land, but where it was the established custom to vary the patta for lands according to the articles produced thereon, this was allowed to be done (section 56, Regulation VIII).

(6) Rent by whatever rule or custom it may be regulated and rate and proportion when it is payable after survey of the crop and measurement of the land are to be specifically stated (section 57, Regulation VIII).

(7) A specified form of patta is provided for (section 58, Regulation VIII).

(8) Pattas of khudkasht raiyats are not to be cancelled except on proof of collusion, or that the rents paid by them within the last three years have been reduced below the rate of the nirikbundi of the pargana or that they have obtained collusive deductions or upon a general measurement of the pargana for the purpose of equalising and correcting the assessment (section 60, Regulation VIII).

(9) Patwaris are to be maintained to keep accounts and to submit them to the Collector, the object of these accounts being to facilitate decision of suits in the Civil Courts between the proprietors and farmers and persons paying rent or revenue (section 62, Regulation VIII).

(10) Receipts for rent are to be given (section 63, Regulation VIII).

(11) In cases of desertion of raiyats the unpaid rents are not to be levied on the remaining raiyats (section 63, Regulation VIII).

(12) Instalments of rents are to be adjusted according to the time of reaping and selling the produce (section 64, Regulation VIII).

(13) Grain, cattle, and all other moveable properties of raiyats are liable to distraint (section 2, Regulation XVII of 1793).

(14) Dewani Adwalut to punish illegal distraint (section 11, Regulation XVII of 1793).

(15) Corporal punishments on defaulters are prohibited (section 28, Regulation XVII of 1793).

(16) If the raiyats omitted or refused to take pattas, a notification in writing specifying that pattas according to the form approved under the established rules were ready to be granted was considered a tender of pattas and entitled the proprietors to demand rent (section 5, Regulation IV of 1794).

(17) In cases of disputes Dewani Adwalut is to determine the rate of the pattas according to the rates established in the pergunnah for lands of the same description and quality (section 6, Regulation IV of 1794).

What the "rights of raiyats" mean.

The "rights of raiyats" call for comments. Sir John Shore definitely pointed out that "with respect to the raiyats, their rights appear very uncertain and indefinite." In the foregoing paragraphs the Committee has tried to show that the Regulations of 1793 give specific directions on certain points as to how the raiyats were to be dealt with, but they are silent on many important matters. In fact, the Regulations had to leave them indefinite as it was a baffling task to clear the path of exploration in the maze of discreet and indiscreet customs. "The constitution of the Moghul Empire", to quote Shore, "despotic in its principle, arbitrary and irregular in its practice, renders it almost impossible to discriminate between power and principle, fact and right; and if custom be appealed to, precedents in violation of it are produced." In tracing a system under successive administrations where rights were often sacrificed to power, it is extremely difficult "to explore those usages which have subsisted for the greatest length of time with the fewest variations and infringements." Lord Cornwallis was also impressed with the complications of the problems arising from "the endless subordinate variations in the tenures or conditions of raiyats, the different rates of rent due to arbitrariness of the Government, differences in the qualities of soil and nature of the produce, different standards of measuring the land, and endless and contradictory customs," which, to quote the Collector of Rajshahyee, were "beyond the investigation not merely of a Collector but of any man who has not made it the business of his life."

Village record of rights broke down.

The rights and obligations of the resident cultivators were maintained by a system of village and pargana registers. The village register in Lower Bengal was kept up by the patwari whose accounts were checked and formulated by the pargana kanungo.[1] The Moghul revenue system broke down in the eighteenth century as "the bow was strained till it snapped." The village record of rights, accordingly, failed, and it rather became "a record of obligations rather than of rights." The Company after obtaining Diwani in 1765 attempted to correct the abuses resulting from the breakdown of the village record of rights by establishing the system of pattas or leases which also failed. The office of kanungo was abolished as "part of the changes embodied in the Permanent Settlement." Lord Cornwallis, without attempting to incorporate the endless varieties of the customary rights of raiyats in the Regulations of 1793, left them undefined in the hope that the Courts of law will interpret the customs in a right manner and restore them, whenever any departure therefrom will be found. The Patta Regulations were recommended to obviate the objections to the Permanent Settlement arising from the undefined state of the rights of raiyats.

Our Committee desires to lay stress on this view of the case to understand the implications of the question, if the Permanent Settlement did take away any existing rights from tenants. The rights and obligations of zamindars and tenants are to be obeyed so far as they are found in the Regulations; the undefined rights and interests received authoritative interpretations from the Courts of Justice and the common law which grew up since the Settlement of 1793. "Every zamindar who had not established a patwari in each village within his estate to keep the accounts of the raiyats, as required by the original rules of the Decennial Settlement of the three provinces of Bengal, Bihar and Orissa, was immediately to appoint one in each village, unless in such instances as the Board of Revenue might deem it unnecessary to have a separate one for each" and the registers of these reformed patwaris were to furnish evidence "to facilitate the decision of suits in the Courts of Judicature between proprietors and farmers of land and persons paying rent or revenue to them."[2] This gathers strength from the inherent difficulties as "it is almost impossible for us at this late period to discover whether any particular act was condemned as a clear violation of right, or merely as a wrong and unjust act done in exercise of a right."[3]

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[1] "The Patwari is employed on the part of the husbandman to keep an account of his receipts and disbursements; and no village is without one of these. The Kanungo is the protector of the husbandman; and there is one in every pargana"—Ain-i-Akbari, Gladwin's Translation.

[2] Sir William Hunter's Bengal Records, Vol. I.

[3] Phillips' Land Tenures of Lower Bengal, 1876.

Raiyati rights subordinated.

The raiyati rights were merged in the recognition of the zamindars as proprietors of the soil with complete powers of alienation and other subsidiary incidents granted by the Regulations. Lord Moira put the case very pithily when he observed that "the under-proprietors were considered to have no rights, except such as might be conferred by patta." It may be mentioned that the khudkasht raiyats who had been in possession of the land for more than 12 years before the Settlement had certain prescriptive rights and they were not liable either to enhancement of rent, or eviction from their holding, so long as they paid the rents which they had all along paid. They were, however, protected by the Permanent Settlement. The other classes of tenants, such as the simple khudkashts and paikashts, had no such right.

Section 52 of Regulation VIII of 1793.

Q. 2. In the answer to Question 1, it has been shown that the 52nd section of Regulation VIII of 1793 provides as follows:

"The zamindar or other actual proprietor of land is to let the remaining lands of his zamindari or estate, under the prescribed restrictions, in whatever manner he may think proper."

The remaining lands refer to the lands remaining over and above the lands held by mokararidars, istemrardars and dependent talukdars who are protected from an increase of jama.

The first forty-seven sections of the above Regulation lay down rules as to the persons with whom the Settlement should be made, as to the lands included in the Settlement, the payment of malikana and other matters concerned with the exact relation between the Government as receiving revenue and the actual proprietors as paying revenue. There were also directions as to what talukdars, mokararidars and istemrardars were to be considered actual proprietors and as to what talukdars, mokararidars and istemrardars were to be regarded as lease holders (subordinate to actual proprietors). The forty-eighth section provides that after the conclusion of Settlement by Government with the zamindars, independent talukdars and other actual proprietors, they are to enter into engagements with the several dependant talukdars. Section 49 provides for mokararidars and istemrardars who had held lands at a fixed rent for more than 12 years or contracted for payment at a fixed rent with the zamindar or actual proprietor, and declares that these two classes are not liable to be assessed with any increase. Section 50 declares that the second class of mokararidars and istemrardars (that is, those who have contracted for a fixed rent) are not to be protected against Government if the zamindari be held khas or let in farm. Section 51 lays down rules to prevent undue exactions from dependent talukdars. Then comes section 52 and it is obvious that the

remaining lands exclude those of dependent talukdars, mokararidars and istemrardars.

The "prescribed restrictions", mentioned in the 52nd section, are to be found in sections 53 to 64 of Regulation VIII of 1793, and the principal provisions have been recited in the answer to question 1 while indicating the rights and obligations of zamindars and tenants. The restrictions generally regulate the form of pattas, the mode and manner of payment of rent and other matters incidental thereto. The expression, "let"[1], in the 52nd section of the said Regulation meant and included letting to raiyats for the purpose of cultivation. Beyond enunciating general principles, these restrictive rules did not descend down to details, as it was well-known that the customary rights of raiyats varied in different places and that they were also intricate.

Raiyats not entitled to undisturbed possession.

Regulation XLIV of 1793 prescribes that no proprietor should fix the jama of any taluk for a term exceeding ten years, or let any lands in farm or grant pattas to raiyats or other persons for the cultivation of lands for a term exceeding ten years. The preamble to the Regulation states: "It is essential that proprietors of land should have a discretionary power to fix the revenue payable by their dependent talukdars, and to grant leases or fix the rents of their lands for a term sufficient to induce their dependent talukdars, under-farmers and raiyats to extend and improve the cultivation of their lands." Commenting on these provisions which formed part of the Code of 1793, Justice Field observed: "If the raiyats or any class of raiyats were entitled to continued and undisturbed possession, these words would have no meaning as applied to them."

On the 15th August 1811, the Collector of Chittagong wrote as follows: "In thus protecting the raiyats his landholders should not be precluded from the inherent privilege of giving him due warning to quit, either at the expiration of any existing lease, according to the terms of the patta, or at such specific period of the year as would be least detrimental to either party in settling their accounts, which, of course, would be about the time of the punya" (first collection of rent at the beginning of the year).

The Court of Directors' opinion.

The Court of Directors[2] arrived at the following conclusion in 1819: "The inference seems unavoidable, that the persons with whom the

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[1]Justice Field observed that the term "let" was not a very appropriate expression to be used in respect of khudkasht raiyats who were already on the land and to whom it was intended that pattas should be given.

[2]Para. 53 of Revenue Letter to Bengal, 1 Revenue Selections, p. 360, quoted by Field in "Landholding and the Relation of Landlord and Tenant."

Permanent Settlement was made, and those who by inheritance or purchase may succeed them, are authorised by the existing law to oust even hereditary raiyats from possession of their lands, when the latter refuse to accede to any terms of rent which may be demanded of them, however exorbitant."

Raiyats not empowered to transfer holdings.

The rights of the raiyats at the time of the Permanent Settlement have never been put by any competent authority as empowering them to sell or mortgage the holdings. Shore observes in his Minute of 28th June, 1789, that the raiyats have no power to sell or mortgage the right of possession in the soil, and the statement is supported by Mr. Harrington (*vide* his Analysis, Vol. III, page 460) who observes: "On the whole, therefore, I do not think the raiyats can claim any right of alienating the lands rented by them, by sale or other mode of transfer, nor any right of holding them at a fixed rent, except in the particular instances of khudkasht raiyats who, from prescription, have a privilege of keeping possession as long as they pay the rent stipulated for by them."

The foregoing observations establish the following points:—

(1) Subject to specific written restrictions, landlords can let the lands to raiyats for the purpose of cultivation in any manner they like.

(2) Landlords can alter provisions and engagements at the time of renewal of pattas and can oust the hereditary raiyats, if the latter refuse to accede to the terms.

(3) Landlords can oust the raiyats, if the latter fail to pay the stipulated rents. Landlords have the inherent privilege of giving the raiyats due warning to quit at the expiration of any existing lease.

(4) Raiyats cannot transfer the lands rented by them. The Regulations of 1793 undoubtedly did not authorise landlords to dispossess cultivators capriciously, but the powers of rejecting bad tenants and of accepting good tenants on their terms, unless expressly forbidden, stood undisputed.

Judgment of Justice Phear regarding the rights of raiyats.

In the legal construction of the Permanent Settlement Regulations it was taken for granted that "whatever the raiyat has, the zamindar has all the rest which is necessary to complete ownership of the land: the zamindar's right amounts to the complete ownership of the land subject to the occupancy raiyat's right, and the right of the village, if any, to the occupation and cultivation of the soil, to whatever extent these rights may in any given case reach. When these rights are ascertained there must remain to the zamindar all rights and privileges

of ownership which are not inconsistent with or obstructive of them. And amongst other rights, it seems to me clear that he must have such a right as will enable him to keep the possession of the soil in the persons who are entitled to it, and to prevent it from being invaded by those who are not entitled to it."[1]

The power of the zamindar to choose tenants more frankly recognised by subsequent legislations.

The power of the zamindar in the matter of choice of his tenants was more frankly recognised in the subsequent legislative measures which were adopted not to reverse the process of law but to give definite legal shape to the intentions of the Permanent Settlement. They were as follows:—

(1) Clause 7, section 15, Regulation VII of 1799, provides, among other things, that "if the defaulter be a lease-holder or other tenant, having a right of occupancy only so long as a certain rent, or a rent determinable on certain principles according to local rates and usages, be paid without any right of property or transferable possession, the proprietor of whom such tenure is held, or the farmer or other person to whom such proprietor may have leased, or committed his rights, must be understood to have the right of ousting the defaulting tenant from the tenure he has forfeited by a breach of the conditions of it." This could be done without recourse to law.

(2) Section 2, Regulation V of 1812, authorised the landlords to grant leases for any period of time or perpetuity.

(3) Under section 32, Regulation XI of 1822, the landlords were expressly declared entitled to eject all raiyats except khudkasht, kudeemee raiyat or resident and hereditary cultivator, having a prescriptive right of occupancy and hereditary transferable tenures existing at the time of the Settlement, though they were subject to enhancement.

(4) Under section 26, Act 1 of 1845, the power to eject all tenants except khudkasht or kudeemee raiyats having rights of occupancy at fixed rents or at rent assessable according to the fixed rules under the Regulations in force was preserved.

Full right of zamindars in unoccupied lands.

In the matter of unoccupied land the landlords' power of letting on whatever terms they thought proper was absolute, subject, of course, to the written restrictions. "They had," as Sir Richard Garth, then Chief Justice of Bengal, observed in his Minute, dated 8th January 1880, "almost as much freedom in that respect as landlords have in

[1]Judgment of Mr. Justice Phear in Narendra Narayan Roy Chowdhury V. Ishan Chandra Sen, 13 B.L.R., 274, at p. 288, Quoted by Mr. Phillips in his "Land Tenures."

England. The terms upon which they let the land were a matter of contract, and the principle of demand and supply (whether of raiyats or land) usually regulated these terms.....It is certain that before the passing of the Rent Law in 1859, a landlord could, and did, almost at pleasure, rid himself of objectionable raiyats."

Permanent Settlement was not given full play in the regulation of the usage of land.

Our Committee is of opinion that the Permanent Settlement was not given full play in the regulation of the usage of the land. The Permanent Settlement Regulations left many things uncertain and it was natural and necessary that in all things for which the Legislature did not make provision, the new course of things under British rule would create a practice and an usage which adjusted and regulated the relations of zamindars and raiyats in an excellent manner. Under a despotic Government no settled common law can grow up but it was expected that well-defined customs would be built up after the Settlement to fill in the blank. In fact, a new common law came into existence to which practical operation was given by a strong Executive and by means of the Courts of Justice. The Permanent Settlement led to the "growth on all sides of the sense of individual legal rights, of a right not vested in the total group, but in a particular member of it, who has become conscious that he can call in the arm of the State to force his neighbours to obey the ascertained rule." In this wise, it was left more to the Courts of Law and to the Executive to regulate the usages, as indiscreet usages could easily be discouraged by them. The Permanent Settlement had the best of intentions but some of them were defeated because all the provisions were not set in full play. Accordingly, Sir George Campbell[1] lamented: "On the whole my impression is that the principles of the Permanent Settlement of Bengal were in the main good and sound, and that the ground for subsequent complaints is to be found not so much in those principles as in the failure to carry them out, and in the ideas which afterwards arose from a misinterpretation of them."

Within a few years after the introduction of the Permanent Settlement two things became clear—

Unscientific usages sanctioned by the tenancy legislations.

(1) the failure of the Patta Regulations,

(2) the absence of effective machinery for prompt realisation of rents.

It was a very common experience that the raiyats were in arrear of rents without forfeiting the right of possession. Various unscientific

[1]In a Cobden Club Paper, entitled "The Tenure of Land in India," published in 1881.

usages came into being which were later on formally confirmed by the tenancy legislations. Through the help of tenancy laws and courts of justice, non-cultivating and defaulting raiyats appeared on the scene, although their existence was sought to be stifled by the Regulations of 1793. The customary right of transfer of holdings by occupancy tenants which grew up in the nineteenth century through the connivance of the courts of law led to the fragmentation of holdings, and proletarianisation of actual cultivators. The practice of subinfeudation among raiyats received recognition from the Tenancy Acts and thereby perpetuated unscientific land tenures. Our Committee will have fuller opportunity to discuss these matters elsewhere in this memorandum, but it begs to place herein on record its view that the Permanent Settlement Regulations were not allowed to build up scientific usages through the fondness of raiyats for everything that becomes and is customary and through the imperfect revenue policy of Government embodied in the tenancy legislations. In India everything gets customary very quickly and easily, and the passion for customs and usages is often lyrical: legislations in contravention of customs are little respected.[1] That was one of the main reasons for the breakdown of some of the excellent provisions of the Permanent Settlement Regulations. The Settlement undoubtedly gave powers to zamindars for regulating the usages of the country by virtue of the inherent right of proprietors, but they were handicapped by the Courts of Law, the Executive and the rent laws adopted from time to time. The moment the declaration was made that the zamindar was the actual proprietor with complete powers of alienation, "the rights of all subordinate holders were necessarily derivative therefrom; and the ascertainment, definition, and enforcement of them immediately fell within the province of the public Courts of Justice."

The social and economic condition of the country at the time of the Permanent Settlement.

Q. 3. The Permanent Settlement was made with zamindars at a time when the country lay prostrate, economically and socially. To understand the part played by landlords in its economic development, it is relevant to know the extent of exhaustion of the resources of the country. The economic effects of the battle of Plassey were devastating. The English captured political power in 1757 but did not acquire it in form. The exhaustion of the resources of the country took place in the following manner:—

(1) Mir Jafar promised in the Treaty to pay large sums of money as compensation to the Company and to other inhabitants of Calcutta

[1]As late as 1880, the Rent Law Commission reported that the majority of tenancies in Bengal and Behar depended upon custom rather than contracts. "More admiration is accorded to the ingenuity with which a contract is broken than to the honesty which respects its binding force."

for their losses at the time of Sirajuddowla's capture of the town which amounted to £2,150,000 in 1757. He made large presents to the Company's servants which were estimated at £1,238,575. During the period 1757 to 1765 the business of making and unmaking Nawabs in Bengal brought to the Company and its servants no less a sum than £5,266,166 (exclusive of Clive's Jaigir).

(2) The total amount of drain to England during the period 1757 to 1780 appears to have been something like £38,000,000.[1] The total amount of "investment" during the fifteen years from 1766 to 1780 was £12,360,264.[2]

(3) Since 1757 the import declined, and it is said that Bengal was deprived of the usual import of about £780,000 of bullion every year. The declining trade of Bengal with Persia and the Red Sea reduced the import of bullion from about £250,000 to £50,000 per annum. After the despatch of the annual tribute to Delhi, there was hardly any currency enough left in Bengal to carry on any trade.

(4) Burdwan was plundered by the Mahrattas in their invasion of Bengal in 1741-42, and "crowds of the inhabitants of the country on the western side of the river crossed over to Calcutta" and implored the protection of the English who obtained permission from Ali Vardi Khan to dig an entrenchment round Calcutta, the remains of which are still to be seen and are called the Mahratta Ditch. That part of the country was laid waste, and the Mahrattas carried off the booty. It was a sudden invasion with appalling consequences in the country.

(5) The goods of the country merchants were heavily taxed: the European servants of the Company received exemption from the inland duties in their trade. Thus the Indian traders were ruined and the Nawab defrauded of a large part of revenue. The oppressions of the gomasthas of the Company's servants in buying goods and commodities and forcing raiyats, merchants and weavers to accept a fourth part of their value are recorded in history. "On account of the oppression on the weavers, the monopolistic power of the Company and unfair competition of the Company's servants in the inland trade, the indigenous merchants and manufacturers were little benefited by the increased exports which resulted from this drain."

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[1]Vide Dr. J. C. Sinha's "Economic Annals of Bengal." Digby refers to the drain of Indian Treasure varying from five hundred to one thousand million pounds to England between Plassey and Waterloo. According to Professor Hamilton, the drain to England was in the form of goods but it did not bring in any profit to the industries of Bengal.

[2]The most serious evil of the financial system of the Company was the application of the revenues of the country to the objects of trade. A certain portion of the territorial revenue of Bengal was set apart every year to be employed in the purchase of goods for exportation to England. This was called the investment. The figures of the annual investment of Bengal, year by year, from 1766 to 1780, are given by Dr. P. N. Banerjee in his "Finance in the Days of the Company" from the Ninth Report of the Select Committee, 1783.

(6) The raiyat's income was materially reduced after 1757. The total revenue in Bengal including abwabs during the first half of the eighteenth century was much lower than what was demanded and actually collected after the Diwani. The invasion of the inland trade by the Company's servants and gomasthas compelling raiyats to sell their products at an arbitrarily low price and to buy their goods at an enhanced price, the extortionate revenue demand and the unwise policy of farming to the highest bidders having no lasting interest in and affection for the raiyats, the decline of the weaving industry providing a supplementary income—all this impaired the raiyat's power of producing wealth.

(7) The great famine of 1769-70 "forms indeed the key to the history of Bengal during the succeeding forty years." One-third of the population, estimated at ten millions, disappeared, and one-half of the cultivators and payers of revenue perished with hunger. When plenty returned in the following years, it returned to "a silent and deserted province," and the country continued to fall out of tillage.[1] "For the first fifteen years after the famine depopulation steadily increased." One-third of the land lay uncultivated.

Tasks placed before zamindars.

When zamindars were given formal recognition of their proprietary right in the Settlement of 1793, the country lay exhausted: the population was sparse and the cultivators decimated in large numbers; indigenous trade was in its decline and Indian treasury depleted; the raiyat's powers of producing wealth and purchasing goods were impaired; a portion of the country lay uncultivated and a greater portion was covered with jungles "infested by wild beasts." At this hour of crisis, zamindars under the Permanent Settlement found themselves fastened with the responsibilities of improving the zamindaris; extending and encouraging agriculture; making payments of land revenue (which formed ten-elevenths of the rental) to Government with certainty, without murmur and without any chance of remission; increasing the number of the reservoirs, embankments and other artificial works to guard against drought and inundation; and of finally courting and encouraging raiyats to do their allotted work of

[1] "In a year when thirty-five per cent. of the whole population and fifty per cent. of the cultivators perished, not five per cent. of the land tax was remitted, and ten per cent. was added to it for the ensuing year (1770-71)"—Sir William Hunter in "The Annals of Rural Bengal." The steady growth of the land-revenue demand even after the famine adds poignancy to the story. The land revenue figures are:

		£
1771-72	... ...	2,341,951
1772-73	... ...	2,298,441
1773-74	... ...	2,438,405
1774-75	... ...	2,777,870
1775-76	... ...	2,818,017

cultivation under a sense of security. At that period there was no other agency for carrying on the welfare work in Bengal. Government had no money: the ideology of Government was not attuned to attending to the social and economic needs of the country. The purposes of the Administration were chiefly concerned with the expansion and stability of the British Empire in India.

Evidence of Mr. Pattle.

The evidence of Mr. Pattle, a former member of the Board of Revenue, explains the position lucidly:

"The country brought under the Decennial Settlement was for the most part wholly uncultivated. Indeed, such was the state of the country from the prevalence of jungles infested by wild beasts that to go with any tolerable degree of safety from Calcutta to any of the adjacent districts, a traveller was obliged to have at each stage four drums and as many torches; besides, at this juncture, public credit was at its lowest ebb, and the Government was threatened with hostilities from various powerful Native States. Lord Cornwallis's great and comprehensive mind saw that the only resource within his reach in this critical emergency was to establish public credit and redeem the extensive jungles of the country. These important objects, he perceived, could only be effected by giving to the country a perpetual land assessment made on the gross rental with reference to existing productiveness and therefore promising to all those who would engage the encouragement of an immense profit from extending cultivation. Admitting the sacrifice was very great, I think it cannot be regretted when it is considered what difficulties it conquered, and what prosperity it has introduced and achieved. For my part, I am convinced that our continuance in the country depends on the adoption of that measure, and that our stability could not otherwise have been maintained."

Birbhum, a prosperous land before the famine, became practically a sequestered and an impassable jungle.

The state of Birbhum[1] may be recited here as an illustration. In 1765, four years before the famine, Birbhum had been cultivated by close on six thousand rural communes, each with a hamlet in the centre of its lands. In 1771, only four thousand five hundred of these little communities survived the effects of famines. In 1771 more than one-third of the cultural land was returned in the public accounts as "Deserted"; in 1776 the entries in this column exceed one-half of the whole tillage, four acres lying waste for every seven that remained under cultivation. Birbhum which was rich and prosperous before

[1]Figures taken from Hunter's "The Annals of Rural Bengal."

1770 was practically a sequestered and an impassable jungle in 1780 through its forests."

Because of zamindars lands became saturated with capital and labour.

Birbhum more or less represented the state of the country in the year 1793. Since then, the country has prospered: agriculture was extended and improved; population increased; roads and bridges were repaired; public embankments, reservoirs and tanks were considerably multiplied; swamps and jungles were cleared; public revenue was placed on a secure footing; indigenous trade recovered; in a word, lands became saturated with capital and labour. After the famine of 1770 there was more land awaiting cultivation than there were husbandmen to till it. The peasant, who had the advantage over the zamindars because of the increase of waste lands and paucity of tillers, had to be "courted to undertake cultivation", as Francis put it in 1776. "The province cannot be re-peopled by Act of Parliament." Zamindars had to "entice away tenants by offering protection against judicial proceedings" and to farm at very low rents. Before the famine of 1770, non-resident raiyats were vagrant and adventurous and "wandered wearily through the province because they could nowhere find land." But during the last quarter of the 18th century resident cultivators even joined the non-resident class to obtain better terms, as that was a period when cultivators could bid on their own terms. For the sake of improving and extending cultivation which was essential for the due payment of land revenue, zamindars offered favourable terms, and often it was stipulated that for a certain number of years there would be no rent as the jungles had to be cleared and that there would be full rents only thereafter.

The country flourishes under the Permanent Settlement.

A writer[1] in the Calcutta Review observed in 1853: "A man may go for miles in any direction, east and north of the metropolis, and see

[1]This writer who is quoted by Ashutosh Mukherjee in his paper, "The Annals of British Land Revenue Administration in Bengal" is described in 1853 by Sir John Kaye as one of the ablest men then in India. The writer's further observations are extremely interesting: "What strikes the eye most in any village or set of villages in a Bengal district is the exuberant fertility of the soil, the sluttish plenty surrounding the grihasta's (cultivator's) abode; the rich foliage, the fruit and timber trees, and the palpable evidence against anythink like penury. Did any man ever go through a Bengalee village and find himself assailed by the cry of want or famine? Was he ever told that the raiyat and his family did not know where to turn for a meal; that they had no shade to shelter them, no tank to bathe in, no employment for their active limbs? Considering the wretched condition of some of the Irish peasantry, or even the Scotch, and the misery experienced by hundreds in the purlieus of our great cities at Home, compared with the condition of the raiyats, who know neither cold nor hunger, it is high time that the outcry about the extreme unhappiness of the Bengal raiyat should cease."

plains succeeding to plains, where there is not one bigha of unproductive soil, and where many thousands of bighas give their return of two crops in the year, without irrigation, and without that careful labour which seems indispensable in the Upper Provinces to successful agriculture. More new bazars will be found to have been established within the last thirty years than old bazars to have decayed. The circulation of money in the interior of such district is very considerable. The number of men who derive competence and consequence from the soil is large. Is it fair to say that all these results are independent of the Perpetual Settlement?"

Report of the Commissioner of Burdwan division, 1883.

On the 20th of October, 1883, the Commissioner of the Burdwan division reported to the Government of Bengal as follows: "The Bengal of to-day offers a startling contrast to the Bengal of 1793; the wealth and prosperity of the country have marvellously increased beyond all precedent under the Permanent Settlement.. .....A great portion of this increase is due to the zamindari body as a whole, and they have been very active and powerful factors in the development of this prosperity."

Official extracts regarding the contributions of zamindars for the welfare of the country.

Our Committee takes the liberty of making relevant extracts from the official reports regarding the conduct of zamindars in the matter of nursing the country with their benevolent works:—

Burdwan division.—"The Lieutenant Governor is glad to see the favourable account that Mr. Buckland has been able to give of the conduct of the zamindars in this division. No zamindar of importance has come under the unfavourable notice of Government. On the other hand, many zamindars remarkably distinguished themselves during the late scarcity for munificence and charity. The Lieutenant Governor has already acknowledged their liberality. The Maharajadhiraja Bahadur of Burdwan, as usual, comes first in works of benevolence and public spirit. The title of Rajah has recently been conferred on Ram Ranjan Chuckerbutty of Hetampur, on Bissessur Malia of Rannegunge, and the title of Ranee on Horo Sundari Debya of the same place, in recognition of their good services and munificence during the past year."—(*Supplement to the Calcutta Gazette*, 18th August 1875).

"There is but little to notice especially under this head where there are so many public spirited landowners as there are in the Burdwan division, it would be invidious to name any unless, indeed, it be His

Highness the Maharaja of Burdwan, who is always foremost in assisting Government and setting a good example to the whole province." (*Supplement to the Calcutta Gazette*, 2nd October 1878).

"As a body they (zamindars) are men of enlightenment and public spirit, and the absence of agrarian disturbances testifies to the good understanding which exists between them and their tenantry." (*Supplement to the Calcutta Gazette*, 24th September 1879).

Presidency division.—"The conduct of the zamindars has been with few exceptions worthy of praise. There were no serious quarrels with tenants in any district. In Nuddea the zamindars have shown great interest in education and in the future of the Krishnagar College..... In Moorshidabad Rao Rajendra Narain Rai of Lalgola is distinguished for charity to the poor and kindness to his tenants, while the name of Maharani Swarnomayee stands foremost in Bengal for works of charity." (*Supplement to the Calcutta Gazette*, 19th September 1877).

"There are so many good zamindars in the Presidency division that it would be almost invidious to select any for special favourable mention." (*Supplement to the Calcutta Gazette*, 2nd October 1878).

Rajshahi division.—"The leading zamindars of the division did their duty most creditably in alleviating the distress occasioned by the failure of the harvests, and the Lieutenant Governor has already acknowledged the good services thus rendered." (*Supplement to the Calcutta Gazette*, 6th October 1875).

"In Dinajpur the resident zamindars are described as being inclined to assist education, and from Rungpore the report is favourable. The munificence of Rajah Promothonath Roy of Dighapatia in Rajshahi in offering the large sum of one lakh and a half of rupees for the proposed Rajshahi College, has been suitably acknowledged by Government." (*Supplement to the Calcutta Gazette*, 30th August 1876).

"In Pabna the Tagore family were, as heretofore, foremost in good works." (*Supplement to the Calcutta Gazette*, 19th September 1877).

Dacca division.—"The Lieutenant Governor has read with satisfaction the testimony borne by the Collector of Mymensingh to the kindness and consideration which the district zamindars, as a body, have shown in forbearing to press their raiyats for rent during this year of difficulty. The Collectors of Dacca and Faridpur have recorded similar remarks. These circumstances reflect credit on the zamindars as a body, and are duly appreciated by Government." (*Supplement to the Calcutta Gazette*, 25th November 1874).

"The conduct of zamindars is noticed as having been generally worthy of their wealth and position." (*Supplement to the Calcutta Gazette*, 1st September 1875).

"The Dacca district has suffered a loss in the death of Rajah Kali Narain Roy, who both in public and private life was a man deserving of the highest praise. To Nawab Abdool Gunny and Asanoollah the town of Dacca owes a debt of gratitude. In Mymensingh the Alapsing zamindars, Raja Surjakanta Acharjea and several others are specially mentioned and generally the zamindars in the district are said to have lived on good terms with their tenantry and one another during the past year." (*Supplement to the Calcutta Gazette*, 25th September 1878).

Chittagong division.—"His Honour recognises the favourable testimony borne by the Commissioner to Baboo Kantapersad Hazaree and Abdool Mallom of Chittagong and Baboo Annodapersad Roy of Tippera for their liberality and public spirit." (*Supplement to the Calcutta Gazette*, 3rd September 1873).

Zamindars formed the only agency for the welfare work of the Province.

The foregoing extracts are made only to show that the liberality and public spirit of the zamindars as a body were known throughout the country and received ample recognition from Government. Zamindars were, in the first half of the nineteenth century, the only agency which was responsible for the welfare work of the province. The establishment of *hats* and bazars by zamindars led to the increase in the prices of agricultural produce; the construction of roads and their maintenance were possible due to the liberal spirit of landlords, and they gave an impetus to better marketing resulting in more money incomes for agriculturists; the spending of money for preventing epidemic diseases through landlords' subsidies to dispensaries and to local physicians, was of incalculable help to the rural people. They encouraged education, opened charitable dispensaries, constructed reservoirs, tanks and embankments, improved sanitation, repaired roads, showed liberality to raiyats whenever they were in distress, gave impetus to indigenous trade and industry through their patronage, and helped the growth of a virile middle class and contented tenantry. In the second half of the last century they were equally essential, although Government began to show a slight visible interest in rural welfare by imposing roads and public works cesses and introducing local self-government in a modified form. The various Acts passed during the second period of the nineteenth century and the transference of the Government into the hands of the British Crown after the Sepoy Mutiny undoubtedly indicate a change of policy, but all the same the services of landlords were as essential as when they were needed in the formative period of the social and economic history of Bengal, that is, in the first half of the nineteenth century.

Minute of Sir Richard Temple on the services of landlords during the great famine of 1874.

Bengal witnessed a great famine in 1874. The services of zamindars during the famine with regard to carrying on the relief works, dispensing charitable relief, suspending or remitting rents, showing special liberality in diverse ways and taking an active part in the administration of relief were commendable, and any enlightened community could be proud of the services thus rendered. Our Committee makes the following quotation, rather *in extenso*, from the well-known minute of Sir Richard Temple, Lieutenant Governor of Bengal, with a view to indicate the zamindar's useful role in the hour of crisis for the country:—

"In most cases it is probable, and in many cases it is certain, throughout the distressed districts, that the zamindars and landholders of all classes have suspended the collection of a considerable portion of their rents. In other words, most of them have had their income seriously curtailed for a year or more. Many of them must have previously been living up to their income; and this should not excite any surprise, as they have families and numerous persons dependent on them. Their position in native society is such as to entail many expenses, such as are unavoidable in the joint family system, but are not at once obvious to Europeans who may have a more restricted standard of the family unit. All these circumstances must be considerably remembered when a general estimate is formed of their services in the cause of humanity. They must all have suffered at least temporary pecuniary loss, and some must have undergone grave inconvenience. Large numbers, perhaps many thousands of lesser landholders, who cannot be formally designated as distressed, must nevertheless have suffered a severe distress, the full degree of which will never be exactly known. It will be found, too, that for the period of the famine and scarcity, the land revenue is paid in by the zamindars in a manner which is satisfactory and creditable to the working of the Permanent Settlement.

"In most cases the zamindars have refrained from asking for payment of the compensation money to which they would be by law entitled on account of the land taken up for relief roads. The value of these gifts cannot be precisely stated, but it must be very considerable. The relief roads extended over a length of about 6,000 miles. Of this length, a large portion must have been carried over lands belonging to private landlords, most of whom have abstained from demanding compensation. This circumstance redounds to the honour and public spirit of those concerned.

"Further it is hardly possible to include in this record the names of petty landholders, village notables, and cultivators, jeyt-raiyats, mundals, and others, who have given their time, their knowledge and influence, their unpaid exertions and labours, to the service of relief. These meritorious persons are scattered all over the lately distressed districts. They cannot be particularised name by name, as such a catalogue would include so many hundreds—even some thousands; but their merit and worth have been great in the aggregate and should be duly remembered.

"As a general fact, I may mention that the total of the sums taken out by zamindars, landholders, and merchants, both European and Native—chiefly by Natives—as advances from the public treasury amounts to forty lakhs of rupees, or £460,000; partly for improvement of the land, partly for the benefit of the tenantry, partly for importation of grain. These advances will doubtless be punctually repaid. They were taken by the recipients not at all for their own benefit, but for the sake of doing good offices to those with whom they were connected by ties of fellowship, of neighbourhood, or of social relation. The magnitude of the sum total represents a great effort made by the upper classes of society on this occasion.

"The subscriptions handed over by the people of Bengal to the Relief Committees, central and local, amount to nearly one hundred thousand pounds sterling. This large subscription has been given in great part by the landholders over and above other expenditures they may have incurred, or losses they may have suffered, in connection with the scarcity."

Evidence of Mr. W. Robinson.

Mr. W. Robinson, Relief Commissioner of Dinajpore, pointed out that "there can be no doubt that by far the greatest part of those who have paid their Government revenue during the past year have had to borrow the money to do so, and this alone must have been no slight strain on the resources of some of them."

The Minute of Sir Richard Temple mentions the specific services of various landlords and without going into details, the services of some of the important zamindars, referred to, are mentioned as illustrations of the high testimony given above—

The Maharaja Bahadur of Burdwan.—"He opened relief houses in different parts of the Burdwan district and at one time he was relieving 4,000 persons daily. He is believed to have expended on relief works and charitable relief more than £20,000; and the Commissioner reports that his 'charities were limited only by the demand on them'."

Ranee Swarnamoyee of Cossimbazar.—"Her munificent subscriptions towards schools, hospitals, and other public improvements have on many occasions been acknowledged by Government. This year she helped her tenants and aided the Government relief officers in every possible way. She imported grain and distributed it in her villages, remitted or suspended the rent of distressed raiyats, and made herself responsible for the payment of Government advances."

Mussumat Sham Mohinee of Dinajpore.—"She refrained from collecting rents during the year of scarcity. She bought and distributed to her tenants about £5,000 worth of rice and seed grain; caused tanks to be dug on her estate; gave land free of charge to her villagers for their tanks; maintained a relief house where, from first to last, about 90,000 persons received relief; and made herself responsible for the repayment of advances of grain made by Government to her raiyats."

Baboo Bissessur Melay.—"He executed relief works for the convenience of his villages at a cost of about £10,000, distributed charitable relief daily at a poor house near his home, and was personally active in directing the due administration of his own charities and of the Government relief operations."

Baboo Ram Runjan Chuckerbutty of Beerbhoom.—"He expended £1,400 on relief works, remitted £3,100 (or one-tenth of his yearly rents), maintained for four months a relief house where 250 persons were fed daily and subscribed largely to relief funds."

Baboos Jyekissen Mookerjee and Rajkissen Banerjee.—"They undertook a considerable number of relief works, they helped their raiyats and remitted or suspended rents. The Commissioner writes that in the Hooghly District Baboo Jyekissen Mookerjee was, as usual, the first and foremost in his exertions for the good of the people and in support of the officers of Government."

Raja Jotindra Mohan Tagore.—"He granted to his raiyats remission of rent to the amount of £4,000, distributed seed grain and money, gave £200 and some land for relief works, opened a dispensary at his own cost, and contributed towards medical relief generally."

Rajah Promothanath Roy of Dighapatia.—"He was conspicuous above all other zamindars of Bogra for his liberality. He executed considerable relief works at his own cost, maintained four relief houses, at which 1,400 people were fed daily, advanced money and seed grain largely to his raiyats and abstained from pressing them for rent."

The picture in 1874 and that in 1770.

The services of zamindars are recounted to contrast the position in 1874 with that obtaining during the great famine of 1770. In 1770 the rights of zamindars were being annihilated by the policy of farming

to the highest bidders. If the crops perished, the people died. At that period the natural scarcity passed in a direct and unmitigated form into actual pressure: "the actual pressure was in proportion to the natural scarcity and the natural scarcity to the actual pressure." There was no agency to lessen the pressure. The country had then no Permanent Settlement, and accordingly, ten millions of people died. But in 1874 the entire resources of the landholding community were pooled towards relieving the pressure arising out of scarcity, and as such there was no story of rank starvation and death. If the zamindar was "the master of the situation, he was also the patron; if he stood above, he also stood behind his raiyats." That was because zamindars as a body were permeated with the feeling that the service of one's fellows was a religious obligation; to repudiate it was impiety.

The sacred mission of private property fulfilled in Bengal.

In Bengal, property has never been intensely individualistic, breaking all social bonds and draining the sap of community. The services, rendered by zamindars in the economic development of the country, lay emphasis on the positive aspect of private property, which was significantly expressed by Dr. Rabindra Nath Tagore in the following way: "Property is a medium for the expression of our personality. Most often and for most men, property is the only frame that can give a foundation for such creation of a personal world. It is not merely money, not merely furniture; it does not represent merely acquisitiveness but is an objective manifestation of our taste, our imagination, our constructive faculties, our desire for self-sacrifice..... Through this creative limitation which is our personality, we receive, we give, we express; our highest social training is to make our property the richest expression of the best in us, of that which is universal, of our individuality whose greatest illumination is love. Property is the unity of wealth that makes for communal prosperity when it is alive to its function. Our wisdom lies not in destroying separateness of units but in maintaining the spirit of unity in its full strength." Our Committee has only tried to show that through the vehicle of private property in agricultural land, zamindars have manifested their desires for sacrifice, and expressed their richness of heart in the services of the raiyats and countrymen. Lapses of particular individuals cannot and should not convict the community as a whole.

Landlords maintaining traditions of liberality under severe handicaps.

Our Committee agrees that "the bark which protects the interior of a tree must be as living as that which it contains. It must not stifle the tree's growth, but must expand in response to the inner compulsion." There was no lack of vitality in the institution of landlordism;

it was quick with life and liberality. It is true that the old liberality and vitality are falling off, although landlords are trying hard to live true to themselves and true to their obligations. It is not true to say that they have failed to live up to their expectations, but at the same time, it is true that "there is much wood that is dead and diseased and that has to be cleared away." The landlords of to-day are maintaining their recurring family grants to charitable institutions, continuing their lakhiraj grants, subscribing liberally to the Funds ear-marked for the welfare of the country, extending help and patronage in times of scarcity, which is more often caused by droughts (as put by the Indian Famine Commission, 1880, in its report). They are still exercising healthy influences in the cause of ordered social progress. But an allowance must be made to the effect that the luxury of a liberal policy is not possible, when landlords themselves are in distress, and are losing their old powers of accommodation.

As illustrations our Committee desires to set below contributions of some of the distinguished Houses of Bengal. It is not possible to get even a rough estimate of the expenses made by the different noble Houses of Bengal towards the economic regeneration of the country. Many landlords consider all this as charities and keep no records of them. The charities of the late Maharaja Manindra Chandra Nandy of Cossimbazar exceed Rs. 3 crores; his manifold charities and liberal contributions for the economic development of the country are well known and too recent to be forgotten by his countrymen. The annual recurring grants of expenditure of some of the estates are as follows:—

The Burdwan Raj Estate, Rs. 3,08,382; the Hetampore Raj Estate (Birbhum), Rs. 73,138; the Dinajpore Raj Estate, Rs. 94,950; the Gouripore Estate (Mymensingh), Rs. 56,767; the Puthia Raj Estate, Rs. 53,435; the Santosh (6 annas) Estate (Mymensingh), Rs. 26,420; the Chakdighi Estate, Rs. 15,390. In this way, all the distinguished Houses in Bengal spend annually crores of rupees for the country even in these days when landlords are shaken by bad collections and economic distress.

Towards the cause of education the contributions of some of the Houses are given below: the Burdwan Raj Estate, Rs. 24,98,784; the Gouripore Estate (Mymensingh), Rs. 11,76,717; the Dighapatia Raj family, Rs. 5,19,737; the Chakdighi Estate (Burdwan), Rs. 7,24,400; the Santosh (6-annas) Estate (Mymensingh), Rs. 5,30,028; the Lalgola Raj Estate (Murshidabad), Rs. 3,98,034; the Ramgopalpur Raj Estate (Mymensingh), Rs. 2,83,855; the Puthia Raj Estate (Rajshahi), Rs. 1,95,307; Raja Kamala Ranjan Roy's Estate (Murshidabad), Rs. 2,26,743; the Hetampore Raj Estate (Birbhum), Rs. 1,54,660; the Utterpara Estate (Hooghly), Rs. 6,62,500; the Dinajpur Estate, Rs. 82,650.

Towards the cause of medical help, the contributions of some of the Houses are as follows: the Burdwan Raj Estate, Rs. 16,80,474; Raja Kamala Ranjan's Roy's Estate, Rs. 6,37,714; the Lalgola Raj Estate, Rs. 5,82,073; the Santosh (6-annas) Estate, Rs. 7,77,040; the Ramgopalpur Raj Estate, Rs. 4,85,680; the Chakdighi Estate, Rs. 5,34,000; the Utterpara Estate, Rs. 2,84,500; the Gouripore Estate (Mymensingh), Rs. 2,86,778; the Hetampore Raj Estate, Rs. 1,48,428.

Towards the construction of roads: the Burdwan Raj Estate, Rs. 6,44,200; the Ramgopalpur Raj Estate, Rs. 5,20,315; Raja Kamala Ranjan Roy's Estate, Rs. 1,26,875; the Chakdighi Estate, Rs. 1,40,000; the Utterpara Estate, Rs. 1,27,500.

Towards religious charities: the Burdwan Raj Estate, Rs. 1,57,00,000 the Gouripore Estate (Mymensingh), Rs. 15,93,190; the Ramgopalpur Raj Estate, Rs. 37,43,194; the Puthia Raj Estate, Rs. 4,16,750; the Santosh (6-annas) Estate, Rs. 2,15,950; the Lalgola Raj Estate, Rs. 2,00,346; the Hetampore Raj Estate, Rs. 1,00,000; the Dighapatia Raj Estate, Rs. 7,725.

Towards industrial and agricultural improvement: the Burdwan Raj Estate, Rs. 59,12,474; the Dighapatia Raj family, Rs. 4,54,000; the Gouripore Estate (Mymensingh), Rs. 2,11,242; Raja Kamala Ranjan Roy's Estate, Rs. 6,27,818; the Utterpara Estate Rs. 2,58,000; the Chakdighi Estate, Rs. 1,73,000; the Ramgopalpur Raj Estate, Rs. 94,950.

Towards water supply: the Gouripore Estate (Mymensingh), Rs. 2,78,624; the Lalgola Raj Estate, Rs. 1,56,944; the Santosh (6 annas) Estate, Rs. 1,45,575; the Ramgopalpur Raj Estate, Rs. 1,26,618; the Utterpara Estate, Rs. 1,47,500; the Puthia Raj Estate, Rs. 1,11,379.

The above list, as will be found, is fragmentary; even the figures in respect of the estates referred to under particular heads, although collected from the estates concerned, are not exhaustive. Moreover, Bengal is dotted with distinguished Houses, such as those mentioned, and every House has to its credit lakhs of rupees spent for the economic development of the country, apart from remissions or suspensions of arrear rents and interests thereon in seasons of calamity and scarcity. Our Committee does not pretend to indicate all the ways through which their charities, contributions, patronage, subsidies and other welfare activities pass; they are varied and too numerous to be recited here.[1] The above figures are only given as rough illustrations in defence of the contention of our Committee and in the hope that they will, even in an imperfect way, indicate the nature of useful role played by the landlords of Bengal. No other community can possibly be proud of greater achievements; no other community is entitled to greater appreciation from the "grateful" Bengal.

[1]For more figures see Addenda to Question 3 printed after the Reply.

Functions expected of zamindars under Permanent Settlement.

The functions expected to be performed by landlords at the Permanent Settlement for the economic development of the country may be stated as follows:—

(1) The proprietors of land will "exert themselves in the cultivation of their lands," "the encouragement of agriculture is essential to the welfare of these provinces." (*Vide* Regulation I of 1793) and preamble to Regulation II of 1793.)

(2) The proprietor "shall have the means of increasing the number of the reservoirs, embankments and other artificial works by which, to a great degree, the untimely cessation of the periodical rains may be provided against and the lands protected from inundation." (Preamble to Regulation II of 1793.)

(3) The proprietors shall find it to their interest to improve the estates. (Preamble to Regulation II of 1793.)

Chief impediments to landlords in playing their part.

Our Committee has tried to indicate that in the nineteenth century they performed the functions expected of them truly and admirably, and that they did make themselves useful and constructive in other spheres, which were not mentioned in the Regulations, or contemplated by the authors thereof. But unfortunately things have moved on generating forces, which handicapped landlords in the wise pursuit of their benevolent activities. Some of the chief impediments are set out below, and they are enough to show how and why zamindars are experieneing difficulties in carrying on their services to countrymen in general, and to their raiyats in particular:—

(1) The Permanent Settlement, the historical forces and the social necessities led to a policy of subinfeudation among landlords. In this way, the incomes of large landlords were reduced. The Hindu law of succession among all sons splits up the estates. Failing sons, a widow succeeds on a very limited tenure;[1] and in Bengal, daughter and other female relations also succeed after the widow, when there are no sons. The Muhammadan law of inheritance creates a great complication of shares. The law gives to every share holder the right of partitioning off his shares. Thus there is a system of

[1]"The tenure of Hindoo widows is peculiar in the extreme. They have no power to administer for useful purposes, so as to give leases, etc., beyond their own lives, but under Brahmin-made laws they can do many things in favour of Brahmins and for superstitious purposes. They are constantly in the hands of Brahmins, and constantly trying to make away with the estates for the benefit of their own relations, or of their Brahmin friends, to the prejudice of the husband's heirs. Altogether the tenure is a most noxious one, and gives rise to half the litigation in Bengal."—Sir George Campbell in his paper, "The Tenure of land in India." Under Act No. XI of 1938 (passed by the Indian Legislature) a Hindu dying intestate, his widow shall be entitled in respect of property in respect of which he dies intestate to the same share as a son.

inheritance leading to constant subdivision of rights, without division of tenures; a vast system of subinfeudation among landlords, and the perplexing and injurious widow holdings. The incomes of every share holder go on decreasing in the process of time.

(2) There is a cycle of bad seasons in agriculture. Indian famines are caused by droughts. Agriculture, for the most part in Bengal, depends on rains, and occasional scarcities are not infrequent. Landlords are to discharge their revenues irrespective of bad seasons, and on those occasions they are either to borrow or draw on their savings. All this goes on encumbering the estates. In this wise, the economic solvency of landlords wears off as time goes on. When capitalism is in its hey day, it can afford to be liberal. "Capitalism in distress cannot afford the luxury of a liberal policy." To go on with a liberal policy of reform in a period of acute decline is extremely difficult. Concessions of the older type are only possible when the margins of capitalist achievement are wide enough to permit them.[1] The deterioration of the margins of landlords through natural and economic causes forms the key to the understanding of the sacrifice of the old liberality of landlords.

(3) Through the process of subinfeudation, especially among raiyats, which has been accelerated by the tenancy law, landlords have lost active touch with actual cultivators; they are also prevented from any access to the holdings, and necessarily from making improvements thereon; when occupancy raiyats intervene and discharge their dues regularly. The only restriction is that occupancy tenants will not render the holdings unfit for cultivation; subject to that restriction, occupancy tenants are not bound by the advice of their landlords, nor could they be forced to improve tillage or lands on terms preferred by landlords. The restrictions, put forward by the Tenancy Act, go to stifle the landlord's initiative, and even when they desire to introduce improvements or invest capital in specific lands, they are helpless before the legal powers of occupancy raiyats.[2] Even if occupancy tenants show carelessness in cultivation, landlords have to sit idle.

(4) Under cover of tenancy legislations landlords' powers of enhancing rents were rigidly circumscribed. It is a very common

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[1]Vide Harold Laski's "The State in theory and practice." The tenantry becomes angry at the suspension of the concession. ....."grievances are thus multiplied and vociferous; the men who feel them clamour for the continuance of the concessions, which, in the past, could be granted without undue hesitation or effort. But to grant them in an epoch of crisis is to call for the voluntary surrender of privileges from those in whom their habitual possession has a veritable religion of ownership. What once seemed reasonable now begins to seem destructive."

[2]This point of view was stressed by Professor S. G. Panandikar in "the Wealth and Welfare of the Bengal Delta." According to him, the courts should be given the power of compelling the tenants (1) either to have their occupancy rights bought out by the landlords, or (2) to accept other land of equivalent value in exchange, or (3) to pay the extra rent on the completion of permanent improvements. P. 313-313.

experience for landlords that the difficulties of proving the increased productivity of lands through their improvements are insurmountable. The Bengal Tenancy Act requires the registration of an improvement. The discretion of Court in the matter of enhancing rent on this account is great. Human nature being what it is, it is not likely for a prudent investor to risk his capital for the distant and faint chance of enhancing his rent under the stringent provisions of the Tenancy Act. By the Tenancy Amendment Act of 1938, all such provisions have been suspended.

The Royal Commission of Agriculture in India, on the other hand, stresses the need for taking away the restrictions on enhancement of rent. It says: "The complaint that the larger landlords do little for the development of their estates on modern scientific lines is a very general one. In their defence, it may be pleaded with some truth that, in some province, the system of tenure or the tenancy law restrains them from obtaining unrestricted possession of a compact area, and in others, prevents them from securing a full and fair return from the proceeds of their enterprise. We would suggest that, where existing systems of tenure or tenancy laws operate in such a way as to deter landlords who are willing to do so from investing capital in the improvement of their land, the subject should receive careful consideration with a view to their enactment of such amendments as may be calculated to remove the difficulties.....Without any desire to engage in moneylending, many of them (landlords) assist their tenantry in a number of ways, and they should be actively encouraged to stimulate the interest of those who hold land under them in the value of improved seeds, implements and stocks. The reply that the increasing prosperity of the tenants, which may result therefrom, would not be reflected in any increase in the income of the landlord is difficult to encounter, but where the existing tenancy law imposes obstacles to progress which were not contemplated by its framers, the case for review gathers force" (para. 358). It is well-recognised[1] that the landlord's right to raise rent should not be curbed in the interest of agricultural progress.

(5) Through the operation of the tenancy law, defaulting tenantry can continue enjoying all the privileges. In this sense, default in payment of rent is encouraged. In the absence of effective machinery for realisation of rents provided for in the Tenancy Act, many of the

[1] "Any proposal to restrict the landlord's right to raise rent meets the fatal objection that this means intensifying the present shortage of capital in the industry. To the free working of the landlord-tenant system the landlord's right to raise the rent is essential. Refusal of that right removes his one economic incentive to improve his land. The psychological effect would be even more powerful. Deprived of any opportunity of getting more out of the land, he would inevitably sink less in it."—Rural Report of the Liberal Land Committee, England, 1923-25, p. 232.

landlords have decent incomes on paper, but in practice they are running from deficit to deficit, with the consolation of large outstanding balances in the form of arrear rents. The evils of arrear rents are discrediting the institution of landlordism. There are, however, economic causes and the countryside agitation, contributing to the non-payment of rent. The costly and ineffective law suits tell on the resources of landlords. Agrarian movement is taking a definite shape; a better knowldge among raiyats to avoid payments, coupled with their economic insclvency, is driving landlords to a desperate situation.

Our Committee begs to maintain that with all these severe handicaps they are maintaining a very good record of services; where they have failed, they have done so under sheer pressure of circumstances. The traditions of liberality have not yet died down.

Q. 4. Our Committee is of opinion that the zamindars were proprietors of land before the Permanent Settlement, and that they were formally recognised as proprietors, not converted into proprietors, by the Regulations of 1793. The origin of the proprietary and hereditary rights of zamindars cannot be stated with precision. In the fiscal machinery of the Hindus the rudiments of the zamindar could be found. During the period from the end of the eighth to that of the eleventh century Bengal was ruled for the most part by Kings of the famous Pala dynasty. The records of these kings refer to the payment in kind and cash. Documents regarding endowments frequently refer to "grampati" (the village headman) and the "kshetrapati" (the lord of the fields) and to the "dasagramika" (the officer in charge of 10 villages). In the early part of the twelfth century the well known Sena dynasty rose in power in Bengal, and it continued to hold sway till the close of that century when it was shattered by Muslim invasion. In the references in the Sena records there is a remarkable testimony to the wholesale substitution of cash assessments for payments in kind prevailing in other parts of northern India. The principle of cash assessments is helpful for the growth of intermediaries acquiring the status of landlords in process of time. In the oldest period to which historical records in northern Indian can carry us back, grants and assignments of lands of various kinds were known. These assignments, generally to the State Officers of all grades, and the collective assessment of villages through the headmen, facilitated the growth of landlords in Bengal.

That zamindars were proprietors of the soil was confirmed by eminent authorities.

In Akbar's time the zamindars of Bengal were "numerous, rich and powerful." They were not of his creation and existed with some possible variation in their rights and privileges before the Muhammadan conquests in Hindusthan, and, without any formal acknowledgement acquired stability by prescription. The new invaders, who

claimed the revenues of the country, from motives of policy and humanity, employed the ancient possessors of the land as their agents for the collection of the taxes of the State, and for this purpose they confirmed the former proprietors. Mr. Shore[1] after examining all the relevant documents and authorities is satisfied that according to the established principle of Moghul finance as practised in Hindusthan, "the rents belong to the Sovereign, and the land to the Zamindar." Gholam Hussain Khan, who was a great authority relied on by Shore, replied to a question as follows: "The Emperor is the proprietor of the revenue issuing out of the territory under his authority, but he is not the proprietor of the soil." Appendix No. 12 of Shore's Minute gives the authorities of Muhammedan law respecting landed property, and they say that "the Sovereign has a right of property in the tribute or rent," and that land will be "inherited like all other property."

Field in his Introduction to the Regulations points out that "there is a native Hindu saying that the land belongs to the zamindars and the revenue to the king and according to Muhammadan law, the Sovereign has a right of property in the tribute or revenue, but he who has the tribute from the land has no property in the land." This interpretation receives corroboration from what Phillips says in his "Land Tenures": "Whatever his (Sovereign's) rights may have been, he never claimed any right to the soil itself as part of his share, nor ever exercised a right to anything beyond the natural or accidental produce of the soil."

Before the Permanent Settlement large zamindars exercised civil and criminal powers and were also unmolested in the collection of revenue. On them rested the power of farming the lands, collecting the rents from the villages and keeping the accounts. They were independent of the interference of the Government in the details of fiscal and criminal administration. It was only when they were remiss in the payment of the sadar jama that officers were deputed to enforce the above payments.

"It appears upon a reference to all the correspondence of the times and is universally known that when the Diwani of the three provinces was ceded to us, the country was distributed among the zamindars and talukdars who paid a stipulated revenue by twelve instalments to the Sovereign power or its delegates. They assembled at the capital in the beginning of every Bengali year (commencing in April) in order to complete their final payments, and make up their annual accounts; to settle the discount to be charged upon their several remittances in various coins for the purpose of reducing them to one standard, or adjust their concerns with their

[1]Minute on the rights of zamindars and talukdars, recorded on the proceedings of Government in the Revenue Department, 2nd April 1788, reproduced in Harington's Analysis.

bankers; to petition for remission on account of storms, drought, inundation, disturbances and such like; to make their representations of the State and occurrences of their districts: after all of which they entered upon the collections of the new year; of which, however, they were not permitted to begin receiving the rents from their own farmers, till they had completely closed the accounts of the preceding year, so that they might not encroach upon the new rents to make up the deficiency of the past." (William Boughton Rouse).

Mirza Mohsin, an experienced Muhammadan officer during the early English regime, bears his testimony to the hereditary tenure of zamindars: "At present the children of a zamindar take the land possessed by their fathers and grandfathers as an inheritance; it is done upon the strength of an ancient custom and institution; according to which the zamindar of the father was transferred by sanad to the son."

Zamindars, according to him, were invested with three offices—the preservation and defence of their respective boundaries from traitors and insurgents, the tranquillity of the subjects; the abundance of cultivation, and increase of revenue; the punishment of thieves and robbers, the prevention of crimes and the destruction of highwaymen.

The Fifth Report stated:—"The zamindars of Bengal were opulent and numerous in the reign of Akbar, and they existed when Jafar Khan was appointed to the administration; under him and his successors their respective territorial jurisdictions appear to have been greatly augmented and when the English acquired the Diwani, the principal zamindars exhibited the appearance of opulence and dignity."

The hereditary rights of zamindars, coupled with the right to alienate land by sale, gift or otherwise, make them proprietors.

Land being a species of that property which is deemed transferable in all countries, the proprietorship of it may be obtained in the same manner as that of any other property of a similar nature by gift, sale or inheritance. "He who obtains land by gift, sale or inheritance is the proprietor of it; and he whose ancestors have been in the possession of it from generation to generation, beyond the memory of man, is to all appearance the owner of it." (Reply of Gholam Hossain Khan.) "In consequence of paying the revenue, of submitting to the authority of the Sovereign and of succeeding to the inheritance of a zamindari by lineal descent, with power of alienation by gift or sale, a zemindar[1] becomes the proprietor of the lands of his own zamindari." (Reply by the Royroyan.)

[1]Whoever possessed a tract of land for which he paid revenue was, literally speaking, a zamindar. But as this word is of Persian origin, it is most probable that the Persians, when they originally invaded Hindusthan and assumed the reins of Empire, introduced the term zamindar, and applied it to the deposed Rajahs from whom they exacted revenue. (From the Answer of Gholam Hossain Khan.)

Proof of alienation and hereditary rights of zamindars.

Proofs of the powers of alienation and hereditary character of zamindars are given below, and they will go to decide that ownership resided in them—

(A) The sales of zamindari land prevailed both in Bihar and Bengal before the Company's accession to the Dewani. The lands of the zamindars in balance were sold in discharge of the rent in arrears. In Bengal the process was as follows: "the officers of Government under the provisional authority were directed to prepare a statement exhibiting the annual rent of the zamindari and the arrears, and the draft of a bill of sale for the amount. The dismissed zamindar was to sign to the bill of sale, and the price of the zamindari was received in discharge of the arrears."

Instances of sales of land by zamindars and talukdars extracted from the record of the Canoongoes are found in Harington's Analysis (p. 104 in the abridged edition). In 1687 A.D. several villages and portions of the zamindari of Gopy Rehmun Choudhury were, by him, sold to Ramnarain Roy. The permission granted by the Emperor Aurangzeb to the English to purchase Cuddalore and other towns establishes the right of property in zamindars. The terms of the firman from the Emperor Furukhseer in 1717 to the agents of the English Company contain that "the Company's factory is established in Calcutta and the sum of Rs. 1,195-6 is annually paid on account of the rents of the talukdari of Calcutta, Sutanati and Govindapore, formerly procured from the zamindars." The Nazim Jafar Khan purchased the zamindari of the town of Murshidabad and kismut Chunacolly from Mahomed Aman, the talukdar, with the produce of his jaigir and named it Assudnagar, and had it entered in the royal registers, and those of the Canoongoes, so that after the decline of his fortune, a pittance might be left from the profits of the land, after discharging the royal rents, for the subsistence of his descendants. When Casim Aly ceded Burdwan and other districts to the Company, he made over the rents of them only; and in defining the power which the English were to exercise over Burdwan, called the zamindari of Tilluk Chand, he directs that they shall keep the zamindars and tenants in their places. "A zamindari being absolute and hereditary property on the condition of paying a revenue to Government, a zamindar has possessed the power, for a long time past, to alienate, give away, or sell his zamindari land, and Government has uniformly acknowledged it". (Answer by the Royroyan to Question 10.)

(B) The hereditary character of the zamindar during the Muhammadan period was undoubted. The zamindar possessed hereditarily,

and the succession to a zamindari was by inheritance. Gholam Hossein, who is the author of a much esteemed history, in reply to questions put to him enunciates the position as thus: "If a zamindari be the actual property of any person, his heir has an undoubted right to succeed to it, nor is the sanction or permission of the ruler necessary, unless there be a disagreement among the heirs, or a doubt regarding the inheritance. The eldest son succeeds in the first instance, and after him the eldest of his sons, whose uncles and brothers have villages allowed them for their support according to their respective exigencies. Many of the former as well as present zamindars succeeded to their paternal inheritance without the express sanction of Government and continued to discharge the established revenue without molestation. I know of no person so unfortunate nor can it be supposed possible that the ruler should set aside the rightful heir without a sufficient cause, such as rebellion, notorious profligacy, or incapacity. In the case of incapacity, he should be dispossessed but should have a malikana allowed him for his maintenance." (Replies to Questions 6, 7 and 8.) The same position is established by the answers of the Royroyan, as can be gathered from the following: "The succession to a zamindari is by inheritance. For a long time past zamindaris have descended in the line of inheritance. The revenue is the right of Government, and the soil the inheritance of the zamindar; hence a zamindari is hereditary. During the existence of an heir and as long as he paid up his revenue, the ruling power never granted the zamindari to any other person" (Replies to Questions 2, 5 and 8).

Shore[1] observes: "I have clearly shown that the zamindars of Dinajpore, Burdwan, Nuddea and Luskerpore were founded before the Viceroyalty of Jafar Khan. It was the same with Mahomedshahy, Jessore, and many others." He has shown that those families succeeded lineally. (*Vide* Shore's Minute in Haringtons's Analysis).

In the plan for a future settlement of the revenues recorded by the Governor-General, Mr. Hastings and Mr. Barwell on the 22nd of April 1775, it is observed that, "both by the Mossulman and the Gentoo laws, inheritance should be divided amongst the sons in equal proportions; yet it has been established by custom that large zamindaris shall not be divided but be possessed entirely by the

[1]Shore remarked in the following strain: "For my own part, the further I have carried my enquiries, the more firmly I am convinced that the state in which we received the rich provinces of Bengal, Bihar and Orissa was a general state of hereditary property, modified certainly according to the nature and customs of the Government which has prevailed there, but, nevertheless, existing with important benefit to the possessors, according to the universal sense of the people; sanctioned by the constant practice of the native princes and established by immemorial usage from one end of the country to the other.....I differ from him (Grant) fundamentally in many articles of fact, justice and expediency."

eldest son, who is to support his younger brothers. On the contrary, it is usual for the small zamindaris to be divided amongst all the sons; but in many parts of the country the custom prevails that the eldest should have something more than the others."

The hereditary and proprietary character of landlords is attempted to be controverted on an appeal to the sanad or grant which is pronounced as the sole ground of rights and privileges of zamindars. Shore holds that sanad is not the sole foundation of zamindari tenure. In fact, zamindari sanads were never conferred at discretion or upon aliens to the prejudice of the heir by kindred; they confirmed the existing rights but did not create them. It is the principal zamindars who applied for sanads and received them; inferior landlords succeeded according to their own laws of inheritance and without any sanad.

Evidences of Francis and William Boughton Rouse.

Accordingly, Philip Francis observed that sanads were a kind of feudal fiction, "of which the Sovereign in fact never pretended to avail himself, as constituting a right to assume or transfer the possession. When he (Sovereign) grants Jaigirs or lands for religious purposes, his order is addressed to the zamindars, chowdhuries, and talukdars. The land continues to be deemed a part of the zamindari; the Sovereign only grants the revenue of it." The permanent appropriation allowed under the denomination of nankar for his subsistence, and the receipt of an allowance (malikana)[1] by the dispossessed zamindar cannot be reconciled to the idea of a fluctuating office, as stressed by Mr. James Grant. Mr. Boughton Rouse whose Tract (An inquiry into the nature of zamindari tenures in Bengal) was dedicated to the Right Honourable Henry Dundas (then President of the Board of Control), with an observation that he knew of the mind of the latter to have "long been satisfied on the subject of the hereditary title of the zamindars to the lands which have been continually occupied by them and their ancestors, nor less upon the expediency of confirming them even if their positive claim were dubious," introduces his own view of the state of landed property in Bengal which corresponds, in substance, with that of Shore whose researches, into the rights of landholders, definitely place him as a great advocate of their proprietary character.

Firman of Emperor Alamgir.

If we examine the firman issued by the Emperor Alamgir to Mohummed Hossain in the year 1668-69, containing directions for

[1] "I have examined a sanad of the year A.D. 1728, shortly after the death of Murshid Quli Khan, when the tide of the zamindar's fortunes was still at a low ebb, in which the right of the dispossessed zamindar to receive an allowance from his estate is distinctly recognised. This clearly implies an interest greater than that of a temporary official removable at will"—Ascoli in "the Early Revenue History of Bengal," page 43.

the collection of khiraj or revenue, we find zamindars[1] being definitely described as proprietors. The firman reads that "if there be a tract of forest land the proprietor of which is forthcoming, you will confirm it to him and not allow another to take possession." This establishes that there was a proprietor, other than the actual cultivator, and the proprietary right was directed to be respected throughout the firman.

Philip Francis, Shore, Cornwallis and the Court of Directors—they together were responsible, more or less, for getting the proprietary right of zamindars recognised in the Permanent Settlement. Their conclusions are given below in support of the contention of our Committee.

Francis' Minute.

"The land is the hereditary property of the zamindar. He holds it by the law of the country on the tenure of paying a certain contribution to Government."—(Francis' Minute on the 22nd January, 1776). The following note is added to Mr. Francis' Minute of the above date:—"The inheritable quality of the lands is alone sufficient to prove that they are the property of the zamindars, talukdars, and others to whom they have descended by a long course of inheritance. The right of the Sovereign is founded on conquest, by which he succeeds only to the state of the conquered prince, unless, in the first instance, he resolves to appropriate or transfer all private property, by an act of power, in virtue of his conquest. When the Moghuls conquered Bengal, there is no mention, in any historical account, that they dispossessed the zamindars of their lands, though it is frequently observed that, where they voluntarily came in and submitted to the new Government they were received with marks of honour, and that means were used to gain and secure their attachment.....Mahomed Reza Khan, in his State of Bengal, affirms that the Princes have no immediate property in the lands, and that they even purchase ground to build mosques and for burying places. In addition to this evidence, it is material to observe that the late administration (of 1772 and 1773) which either dispossessed most of the zamindars of the management of the lands or took no measures to restore them, constantly described them as the hereditary proprietors, and on this principle has allowed them a pension, or a tithe of gross produce, for their support."

[1]The firman is published as Appendix 13, relied on by Shore, in Harington's Analysis. The phrase "Arbab-i-Zemeen" is used and according to undisputed authorities the meaning of "arbab" which is plural of "rub" is lord or master and not cultivator. Thus "rub-ul-araz" is rendered by Professor Wilson in his glossary of Indian terms into proprietor or master of land while "Arabi-i-Zemeen" is similarly rendered. Both Shore and Harington understand the word in this sense.

Minute of Shore.

"I consider the zamindars as the proprietors of the soil, to the property of which they succeed by the right of inheritance, according to the laws of their own religion; and that the Sovereign authority cannot justly exercise the power of depriving them of the succession, nor of altering it, when there are any legal heirs. The privilege of disposing of the land, by sale or mortgage, is derived from this fundamental right, and was exercised by the zamindars before we acquired the Dewani." (Minute of Shore on the 18th June, 1789.)

Lord Cornwallis' Minute.

"Mr. Shore has most ably, and in my opinion, most successfully, in his Minute delivered in June last, argued in favour of the rights of the zamindars to the property of the soil.....Although, however, I am not only of opinion that the zamindars have the best right, but from being persuaded that nothing could be so ruinous to the public interest, as that the land should be retained as the property of Government." (Lord Cornwallis' Minute, dated 18th September, 1789.)

"I admit the proprietary right of the zamindars and that they have hitherto held the collection of the internal duties." (Lord Cornwallis' Minute, dated 3rd February, 1790.)

Court of Directors' letter, dated 20th August, 1788.

"It seems to be admitted, on all hands, that hereditary descent and succession (and in many cases mortgage and alienation) have long been usual in Bengal; and that notwithstanding the various revolutions at Delhi and in the provinces, this rule has rarely been interrupted but for acts of atrocity, which might incur forfeiture, default of revenue, or failure of heirs. This doctrine is confirmed, instead of weakened, by the account of the four principal zamindaris prepared by the dewan and delivered in by Mr. Cowper. Moreover, we believe it is a fact that many of the present zamindars are the lineal descendants of those persons who possessed the lands before and under the conquest of Bengal by the Emperor Akbar about two centuries ago. In like manner, it is certain that the idea of an hereditary tenure has been sanctioned by repeated discussions in the British Parliament. It has been recognised also by the undeviating practice of our Government in Bengal, and of all the Dewani

Courts since possession of the country; and that not as mere acts of grace or personal partiality, but as the dues of justice yielded to those having a fair right to demand them."—(Extract of a letter from the Court of Directors, dated 20th August, 1788, paragraphs 28 to 32.)

Passages in the Regulations confirm that the pre-Settlement zamindar was a proprietor of land.

It is found that the Statute 24 Geo. III c. 25, sec. 39, which is the basis of the Permanent Settlement, read in the light of the instructions issued by the Court of Directors, assumed that zamindars had proprietary rights in the soil. Even from the passages in the Regulations themselves the inference is irresistable, that the pre-Settlement zamindar was, in the opinion of the Government of Lord Cornwallis, a proprietor of land. The preamble to Regulation XI of 1793 recites that "a custom originating in considerations of financial convenience was established in these provinces under the native administrations according to which some of the most extensive zamindaris are not liable to division. Upon the death of the proprietor of one of these estates it devolves entire to the eldest son or next heir of the deceased to the exclusion of other sons and relations."

Judgment in Freeman v. Fairlie.

This view of the case was very forcibly put in Freeman *v.* Fairlie (1 Moore's Indian Appeals, p. 341) when the Lord Chancellor delivered judgment in 1828: "Still notwithstanding these circumstances and these charges, I think it is impossible to read those articles (referring to the Regulations of 1793) which were prepared obviously with great caution and consideration by persons well acquainted with the subject, and possessing every means of obtaining the most acurate information on it, and as far back as the year 1793, without coming to the conclusion that the zamindars and talukdars were owners of the soil, subject only to a tribute, such as I have said, to Government..... Looking at these documents and opinions, and considering, with the best intentions in my power, these papers they cofirm, most strongly, the opinion I should have derived from the Permanent Regulations, namely, that the proprietors of the soil had a permanent interest in it at the time when the English established themselves in that settlement." This standpoint was confirmed by the Privy Council in "Ganga Gobind Mandal *v.* the Collector of the 24-Parganas (*vide* II Moore's Indian Appeals, page 359)."

Controversy between the Supreme Court and the Company's Government.

In this connection, an interesting controversy[1] between the Supreme Court and the Company's Government with regard to the legal status of zamindars may be mentioned. The Company's Government, whenever they found it convenient to set aside the rights of zamindars, affected to represent them as mere agents of Government in the collection of land revenue. The Supreme Court held that if the zamindars were the agents of the Company's Government in the collection of land revenue, they were persons in the service of the Company, and consequently subject to the jurisdiction of the Court which was vested by section XIV of the Regulating Act. The Supreme Court issued writs at the suit of individuals against zamindars. The credit of the zamindar was shaken, and collections of land rent began to fall. Sir John Day, the Advocate General of the Government, was of opinion in 1779 that "the zamindars were landholders and held their lands and right by inheritance." The issue came to the forefront in the case of Raja of Cassijorah, a prominent zamindar in Midnapore, *vs.* Kashinath Baboo. The discussion which these transactions evoked in England resulted in an Act of Parliament—the 21 Geo. III, Cap. LXX—by the 9th section of which it was expressly enacted, "that no person shall be subject to the jurisdiction of the Supreme Court, for or by reason of his being a landowner, landholder or farmer of land, or of land rent, or for receiving a payment or pension in lieu of any title to, or ancient possession of, land or land rent, or for receiving any compensation or share of profits for collecting of rents payable to the public out of such lands or districts as are actually farmed by himself, or those who are his under-tenants, in virtue of his farm, or for exercising within the said lands and farms any ordinary or local authority commonly annexed to the possession or farm thereof, within the Provinces of Bengal, Behar, and Orissa, or for or by reason of his becoming security for the payment of the rents reserved or otherwise payable out of any lands, or farms of land, within the provinces of Bengal, Behar and Orissa." Thus the theory, put forward by some of the Company's servants that landlords were merely persons in the service of Government for the collection of land-revenue, had to be abandoned by them.

Before the Permanent Settlement there were powerful and independent traditional zamindars of Bengal.

Before the Permanent Settlement, it was possible to name twelve traditional Bhuyas or original zamindars of Bengal, who held hereditary status in their respective territories. They were powerful

[1]Mill's British India.

chiefs who had been exempted from full subjection like the frontier Rajas of Birbhum and Bishnupur. Like the Raja of Burdwan, there were many zamindars, chiefly in the outlying and frontier districts, who won for themselves a partial and intermittent exemption by armed resistance. Such zamindars "held princely courts, maintained their own bodies of armed followers, dispensed justice in their territories or estates, and handed down position from father to son. But all of them paid a tribute or a land tax to the Muhammadan Government at Murshidabad." These peculiarities are to be found in the political history of the Lower Provinces. "The part of Bengal which passed under the Company's administration by the Diwani grant of 1765 had never been strictly subjected to the revenue system of the Moghul Empire. Imperfectly conquered by the early Delhi power in 1203, its Governors threw off the northern yoke in 1340. During the next two hundred years, Lower Bengal was ruled by a succession of twenty independent kings who relied to some extent on the local Rajas and zamindars to maintain them against external attack or reconquest. After its conquest by Akbar in 1576, it became an outlying province of the Moghul Empire, into which even that great Sovereign did not find it possible to carry out his detailed revenue settlement." About the middle of the seventeenth century, every territorial magnate became as independent as he could, and every important zamindar tried to set up as a territorial magnate. When Lower Bengal came under the sway of Murshid Kuli Khan (1704-1726), the zamindars suffered a severe setback, but again after the decline of the Moghul Empire, they became powerful and their rights and claims could hardly be resisted. There were Houses which continued from the very early period, although "most of the considerable zamindars in Bengal may be traced to an origin within the last century and a half," as was observed by Shore in 1788.

Different grades of landlords.

If this be true that a general state of hereditary property existed in Bengal and was vested in the zamindars before the Permanent Settlement, it was interesting to observe the irreconcilable conflict of opinion among certain observers as to the title of zamindars. This can only be explained by the fact that the expression, zamindars, was merely a convenient general term which included landlords of different kinds. From the answer of the Royroyan we learn that "Zamindaris are of various kinds. Some are obtained by inheritance, some by clearing the country of wood, some by ejectment of the former possessor for ill behaviour, some by purchase and some in trust. There is a difference in point of rank between the superior and inferior landlords." Sir William Hunter attempts to remove the confusion by

classifying the Bengal zamindars before the Permanent Settlement into four grades—

(*a*) the first class represented the old Hindu and Mohammedan Rajas of the country, previous to the Moghal conquest by the Emperor Akbar in 1576, or persons who claimed that status,

(*b*) the second class were Rajas or great landholders, most of whom dated from the 17th and 18th centuries,

(*c*) the third class were persons whose families had held the office of collecting the revenue during one or two or more generations and who had thus established a prescriptive right,

(*d*) the fourth class was made up of revenue farmers who, since the Diwani grant in 1765, had collected the land tax for the East India Company under the system of yearly leases, then of five years' lease, and again of yearly leases, and they acquired the *de facto* status of zamindars.

Grant cannot be taken seriously.

The first two classes had a social position "resembling the Feudatory Chiefs of the British Indian Empire but that position was enjoyed by them on the basis of custom, not of treaties."[1] Our Committee maintains along with Field, Hunter and others that "it is these fundamental differences in origin which have led to such contradictory statements, alike in Indian History and in Indian law-courts, as to the title of the Bengal Zamindars." On the basis of the facts shown above, it involves a definite strain on history to accept the statement of Mr. James Grant, Chief Record Keeper of Bengal, that the Bengal zamindars were "no more than annual contracting farmers or receivers of the public rents." Mr. Grant and advocates of his point of view, had, perhaps, their eyes fixed on "annual revenue farmers" after 1765, without looking into the general state of property in Bengal. Shore politely refuses to take Grant seriously. If observers before the Permanent Settlement could indulge in views, similar to those of Grant, "it is not surprising that the views of Indian historians and the pleas of Indian lawyers, should be equally contradictory at a later period, after the wave of the Permanent Settlement had passed over Bengal and submerged the pre-existing state of things."

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[1] "In one point of view, the zamindars, as descendants of ancient independent Rajas, or as the successors of their descendants, seemed to have been tributary princes. In another light, they appeared to be only officers of Government. Perhaps their real character partook of both; and they might, not inaptly, have been compared to kings nominated by the Roman republic to administer conquered kingdoms."—Colebrooke's "Remarks on the Husbandry and internal Commerce of Bengal", page 43.

Permanent Settlement confirmed the rights of landlords without creating them.

Our Committee holds that the Permanent Settement was made "according to the laws and constitution of India," and as such the Regulations of 1793 confirmed the rights of landlords without creating them. They did not introduce foreign ideas so far as the notions of ownership were concerned. The Despatch of the Court of Directors of the 12th April 1786, definitely proves that Lord Cornwallis was sent out to introduce a Permanent Settlement according to "the laws and customs of India" and according to the local system of land rights in Bengal. When this is true, the description of Bengal landlords before the Permanent Settlement as being not owners of the lands is erroneous.

Permanent Settlement, a solemn written contract.

Q. 5. Our Committee holds that the Permanent Settlement is a solemn written contract[1] between the State and the landholders. It is also a contract for the benefits of which the majority of the present landholders of Bengal have admittedly paid full value. Nor was it originally a contract without valuable consideration.[2] The landholder of 1793 engaged to discharge regularly the revenue in all seasons, without any reference to drought, inundation or other calamity of the season; the revenue at that time represented ten-elevenths of his rent roll, a proportion which is unknown in any cannon of taxation. The Sale Law of the Cornwallis Code providing for the attachment and sale of the defaulter's real or personal property to liquidate the arrears of Government revenue was a heavy price paid for the contract. One of the objects of the codification of the Regulations was thus expressed: "A code of Regulations framed upon the above principles will enable individuals to render themselves acquainted with the laws upon which the security of the many inestimable privileges and immunities granted to them by the British Government depends and the mode of obtaining speedy redress against every infringement of them" (Regulation XLI, 1793). It was on the faith of those Regulations that the people accepted the agreement, bought and sold, gave and took, made permanent provisions for families and institutions and endowments for sacred and charitable purposes; it was

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[1]Ashutosh Mukherjee, an eminent jurist, observed: "It is as much a contract as the promissory note of the Secretary of State for India. It is, of course, a much more complex contract, and different minds may well put different constructions upon it, but it is still essentially a contract."

[2]According to English law, an agreement to assign leasehold property, the assignee taking upon himself to pay the rent and perform the covenants of the lease, is never looked upon as a "nudum pactum", but always considered to be an agreement for valuable consideration. Price V. Jenkins, Law Rep. 5 Chancery D. 619.

on the assurance conveyed by the Regulations that the people laid out their hard earned money in taking permanent leases and spent capital to make improvement, as "land was made the most desirable of all properties."

Conveyance not to be abrogated without compensation.

The Settlement was neither a simple ordinary contract, nor a simple ordinary enactment, but a solemn conveyance, designed by Parliament,[1] executed by the Court of Directors,[2] and delivered by the then Governor-General.[3] The rights of zamindars were confirmed for considerations, pecuniary, political and economic, past, present and future, and as such cannot be altered or modified without the consent of the party affected or without due compensation being made.

The Settlement thrust on zamindars.

It is not true to say that the zamindars, independent talukdars and other actual proprietors were consulted about the arrangement. The Government offered terms which imposed heavy responsibilities on the zamindars. The Government was prepared for the contingency that some of the zamindars would decline to accept them. Accordingly, it was provided in Regulation VIII of 1793 that "an allowance in consideration of their proprietary rights" might be awarded to the zamindars who might refuse to engage for the jama required from them. (Section 44.) The Settlement was thrust on the zamindars *nolens volens* in the interest of the Government; the great majority of them entered into the agreement placing implicit reliance on the honour of England and looking more to the distant future than to the immediate present. They were moved by "the magic of property and perpetuity." The people of the country had an extraordinary love for land.

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[1]Pitt's India Act of 1784 gave directions "for settling and establishing, upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which the respective tributes, rents and service shall be in future rendered and paid to the said united company by the said Rajas, Zemindars, Polygars, Talookdars and other native landholders." (Section 39.)

[2]The Court of Directors in a letter to the Government of Bengal, dated 12th April, 1786, gave definite directions for the observance of the Parliamentary Legislation of 1784 and wrote: "We desire that you will consider this clause of the Act of Parliament with a most minute and scrupulous attention, and take special care that all measures adopted by you, in the administration of our revenues, may be consonant to the sense and spirit thereof."

[3]Lord Cornwallis arrived on the 12th September, 1786, and brought with him a letter, dated 12th April, 1786. The Regulations of 1789 for the Decennial Settlement were promulgated and he was authorised to declare that subject to the approval of the Directors in England, the jama would remain fixed for ever. The Proclamation which announced the permanency of the Settlement was embodied in Regulation I of 1793.

Government as Sovereign Power contracted with zamindars.

The contention that tenants were not consulted, has no validity in so far as the solemnity and sacredness of the pledge is concerned. It is strange that it is urged in responsible quarters that as raiyats were not a party to the arrangement, embodied in the Settlement of 1793, their rights could not be affected, nor were they bound by it. Raiyats are in fact "estopped" from urging such a plea, as Government were a party not merely as an ordinary contracting party but as Sovereign. Government have the right to affect or modify the rights of raiyats, and if the contract entered into by Government and landholders affects raiyats in any way, it does not and cannot become void on that account. Accordingly, the argument that raiyats were not parties to the Settlement does not nullify the contract between the State and landholders. It is to be borne in mind that the main contracting party was the State which had definite sovereign powers in regulating the rights of the third party.

British Empire in India built up by Bengal's money.

The question under reply raises another common place charge that the Permanent Settlement has crippled the financial resources of the country. In the answer to question 3, our Committee has shown that Permanent Settlement has released the wealth, enterprise and energy of landlords for the amelioration of the exhausted state of the country which was palpably visible in 1793.[1] Secondly, the Permanent Settlement has yielded the greatest amount of land revenue which was not possible by any other settlement, and by ensuring prompt realisation of the unvarying quantum of revenue, it has rescued the Administration from the risk of uncertain collections and stabilised the British Empire in India. It is a matter of history that it would not have been possible without the aid of the Permanent Settlement to screw £3,235,259, in 1794-95 as land revenue out of the gross revenue of £5,937,931 from the Government of Bengal. It is also an open historical fact[2] that "in India an Empire had been acquired, wars had been waged, and the administration had been carried on at the cost of the Indian people; the British nation had not contributed a shilling. The trading company which had acquired the Empire had also drawn their dividends and made their profits out of

[1] "In Bengal, where the revenue of the State has had the form of land rent, the management of public finances has a more immediate influence on agriculture than any other part of the administration. The system, which has been adopted of withdrawing from direct interference with the occupants, and leaving them to rent their fields from landlords, will contribute to correct the abuses and evils which had formerly rendered the situation of the cultivator precarious." "Colebrooke in 1794.

[2] R. C. Dutt's Economic History of British India.

the revenues of the Empire for two generations. When they ceased to be traders in 1834, it was provided that the dividends on their stock should continue to be paid out of the taxes imposed on the Indian people. And when, finally, the Company ceased to exist in 1858, their stock was paid off by loans which were made into an Indian Debt. The Empire was thus transferred from the Company to the Crown, but the Indian people paid the purchase money."

Bengal's Surplus and deficits of Bombay and Madras.

If the figures of the Indian revenue receipts and expenditure from 1793 to 1837 are examined, it is to be found that Bengal with "an increased, steady, and unvarying income from the soil, due to the Permanent Settlement," paid the expenses of ambitious wars and annexations in northern and southern India; Madras and Bombay never paid the total cost of their own administration during these years; Great Britain never contributed any thing towards the acquisition of India. During the administration of the Company, land was the staple source of income of the Government of Bengal, and from 1795 to 1810, Bengal showed a definite surplus whereas Madras and Bombay should deficits. Bengal contributed land revenue to the extent of more than 230 millions sterling during the years between 1793 and 1834, whereas Bombay and Madras together contributed only a little over 126 millions sterling. The total revenue of Bengal during the period of 1792-93 to 1808-9 exceeded the total charges by £27,409,097. For the same period the deficiency in Madras amounted to £11,193,883 and the total excess of expenditure in the Bombay Presidency amounted to £18,387,745. During the period 1814-15 to 1828-29, the total Bengal surplus amounted to no less than £28,374,534; the Madras deficit being £3,086,384; the deficit in the Bombay Presidency amounting to £16,223,922. In consequence of the large surplus realised from Bengal there was, during the fifteen years ending 1828-29, notwithstanding the deficit at the other two Presidencies, an excess of revenue over expenditure in India as a whole amounting to £9,064,228 or an annual average of £604,281. In the thirties and forties of the last century there were apparent deficits in Bengal. But this was due to the entire charge of the Government of India being shown against that province. But so far as the provincial accounts proper were concerned, annual surplus was exhibited by Bengal. The public debt of India tended continually to grow because of wars. The largest portion of the debt was raised in Bengal. But the whole of the Bengal debt was not really due by that Presidency. The other Presidencies often raised their loans in the city of Calcutta. Besides, as the charges of the other Presidencies considerably exceeded their revenues, it is to be presumed, that a part of the loans of Bengal

must have been raised in aid of the wants of Bombay and Madras.[1] All this was possible for Bengal to provide, because of the Permanent Settlement, ensuring high land revenue demand and other demand and other returns from agricultural and commercial expansion. Accordingly Mr. R. C. Dutta remarked: "It may be said with strict truth that the conquests of Lord Hastings like the conquests of Lord Wellesley were made out of the resources furnished by permanently settled Bengal."

Indirect returns from the Permanent Settlement.

Thirdly, it is repeatedly urged that the Permanent Settlement is a "financial mistake" and that it is "a sin against posterity." But it is forgotten that "no amount of direct and indirect land revenue could bear any proportion to the increased sources of revenue which will directly and indirectly be gradually developed by the Permanent Settlement."[2] Colonel Baird Smith who was appointed to inquire into the causes of famines of northern India in 1860 observed with reference to the question of Government's loss due to the Permanent Settlement that "there would be no real sacrifice but, on the contrary, a marked increase of the public resources from the creation of the increased private property to which it is conceived that a Permanent Settlement of the public demand must lead.[3]

The apparent financial loss was compensated for by increased cultivation, improved productiveness of land, augmented wealth and prosperity of the peasantry, improvement and increased value of landed property. There were indirect returns from the increased wealth and prosperity of the country. The Permanent Settlement created prosperous middle classes and contented tenantry. Because of the comparative wealth of her middle classes and raiyats, Bengal can afford to pay more as customs duty. The sale of imported goods is greater in Bengal and that indicates the higher purchasing power of the Bengalees. The consumption in Bengal of cotton manufactures, foreign liquor, and tobacco, machinery, articles of food and drink, cutlery, hardware, etc., is comparatively high. If we take a pre-depression period, which brings out the full play of normal factors, say, 1925-26, Bengal contributed more than 26 crores to the Central Government under various heads, such as, income-tax, customs, salt,

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[1]Vide Dr. P. N. Banerjee's "Indian Finance in the Days of the Company," Chapter III.

[2]Minute of R. Money, Junior Member of the Board of Revenue of the North-Western Provinces, dated 1861.

[3]"The reviving prosperity of the country (Bengal), its increased wealth and rapid improvements are unquestionably due to the Permanent Settlement"—Colebrooke in 1808.

"In Bengal where independent of its exuberant fertility there is a permanent settlement, famine is unknown"—Bishop Heber in 1826. Good many authorities are quoted by R. C. Dutt in his "Economic History of British India."

and opium and excise, whereas Madras with a population of more than 42 millions (nearly as Bengal's) contributed 6 crores, Bombay, more than 23 crores, and U. P. more than 1 crore only. Be it noted that Bombay is a manufacturing province and not an agricultural one. The inelasticity of land revenue in Bengal has given elasticity to the stamp duty, income-tax, customs duty. An interference with the purchasing power of the people will be an interference with the taxable capacity of the country. The land revenue demand and agricultural rent demand being low, the purchasing power of the people has increased; if the Government do not gain directly thereby, indirect returns are not inadequate. Moreover, the certainty of collection of land revenue without any risk and possibility of suspension or remission even in emergent crises and involving a saving of expenditure of vaxatious periodical settlements is no small gain to Government.

It will be most unfortunate and a narrow view of public finance if a measure is attempted to be judged by its direct return to the treasury. Its possibilities and ramifications towards the growth of indirect sources of revenue should not be neglected.[1] The best asset of the State is the people; the best credit of the State is the purchasing power of the people. Revenue receipts are not necessarily the best index of the country's prosperity.

Land Revenue certain, while other receipts shrink during depression.

In this connection, it may also be noted that even in the worst period of economic depression, when receipts under other heads showed a shrinkage, the land revenue demand from the permanently settled estates gave unvarying returns. That was a great gain to the provincial Administration which was ordinarily saddled with inadequate revenues. In 1929-30 the Budget estimate of Bengal showed revenue of Rs. 2 crores 25 lakhs under Excise, Rs. 4 crores and 22 lakhs under Stamps. But the Budget receipts of Bengal for 1935-36, when the peak year of depression is over, show Rs. 1 crore 33 lakhs under Excise and Rs. 2 crores and 95 lakhs under Stamps. The deterioration of the receipts under heads, other than land revenue in times of depression, emphasises the importance of the unalterable nature of land revenue receipt in the system of provincial public finance.

Payment of land revenue and other kinds of cesses.

Our Committe cannot, therefore, subscribe to the contention that the Permanent Settlement has financially crippled the resources of

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[1]"No doubt the provincial Government would have been able, had there been no Permanent Settlement to deprive a larger revenue from the land; but in that case it would have been impossible under conditions prevailing to-day (that is, in a period of agricultural depression) to collect the full amount of the tax on Jute."—(His Excellency Sir John Anderson, Governor of Bengal, at St. Andrews' Day Dinner on November 30, 1932.)

the country. Indirect returns apart, direct returns are pouring forth from the people dependent on income from land in the form of cesses, in addition to land revenue. And in fact, public works and road cesses have been in operation for more than half a century and the rural primary education cess is in operation in many districts (although suspended in certain districts for the last floods). In the face of these direct and indirect returns, our Committee is unable to agree with the implications involved in the contention that the Permanent Settlement is a measure which has "permanently crippled the financial resources of the country."

Q. 6. It is true that by virtue of the Settlement of 1793, the Governor-General in Council trusted that "the proprietors of land, sensible of the benefit conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them on their heirs or successors by the present or any future Government for an augmentation of the public assessment in consequence of the improvement of their estates."

Languid commerce and poor farming at the time of the Settlement.

We have shown in our answer to question 3 that the country when the Permanent Settlement was concluded, lay exhausted. There were more lands, less tillers. Trade and industry were in a languid state; roads were neglected, irrigation in an unsatisfactory condition.[1] At that period there was "an ignorant husbandry which exhausts the land, and neglects the obvious means of maintaining its fertility and of reaping immediate profit from the operations which might restore it;" there were rude implements, "inadequate to the purpose for which they are formed, and requiring much superfluous labour, and this again ill-divided[2] and employed disadvantageously." In Bengal there was,

[1]"The want of accommodation, in travelling by land or water, is doubtless the consequence of limited intercourse, and becomes, in its turn, a cause of discouragement to frequent communication. If duly weighed, it will appear no unimportant circumstance, whether considered as indicating general poverty or the decay of commerce and agriculture. A brisk trade requires much intercourse, and this again promotes traffic, by early information on the wants or abundance of different provinces. A languid commerce, which merely fetches, in an established course, the produce of provinces usually cheap to dispose of it in districts usually dear, cannot note the smaller variations of markets, and consequently, the prices of different districts find their level slowly, and vibrate between wide limits. The effects which great variations in the price of land produce have upon husbandry are obvious."—Colebrooke in 1794.

[2]Every mechanic, every manufacturer followed his regular occupation as called to it by the wants of his neighbours, and in the interval he returned to the labours of the field and became a husbandman.

then, great value of money[1] and cheapness of labour.[2] Agriculture was suffering from want of capital. "In agriculture particularly, which is the basis of the prosperity of a country, the want of pecuniary funds is a bar to all improvement."

Energy and capital of zamindars released for improvement of land.

We have also seen that the Settlement diverted the energy and capital of zamindars to the economic development of the country. Lord Cornwallis estimated no less than a third of the Company's territory to be a jungle; Mr. Colebrooke estimated that one-third of the territory only was fit for cultivation. The Fifth Report was aware of the different kinds of estimates.[3] In the circumstances, the extension of cultivation cannot take place without the employment of capital sunk in clearing jungles and courting cultivators to stick to the work of cultivation. The sense of security released by the Settlement brought out the wealth of zamindars, and cultivators were accordingly nursed. When this peaceful and secured state continued for some time, the curve of population which was in its decline in 1793 began to rise, and in fact, by 1825, agricultural prosperity set in indicating the extension of cultivation and the increase of population.

The extension of cultivation through zamindars' efforts.

The waste lands[4] included in the zamindari settlement belonged to the respective landholders, and it was in the extension of cultivation that the security of landlords lay. In the evidence before the Select Committee of the House of Commons, 1831-32, many of the close critics of the zamindar had to admit that a great extension of cultivation had taken place since the Settlement of 1793. Mr. J. Mill, a great radical

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[1]The prices of the main articles at the time of the Settlement were as follows: Pulse of all kinds—10 annas per maund; rice, wheat, barely—12 annas per maund; Gajree, Joar and maize—8 annas per maund. In a cheap district rice in the husk sold, one season, as low as eight maunds for one rupee. (Vide Colebrooke's Notes on the Husbandry of Bengal).

[2]The wages of agricultural labourer at the time of the Settlement did not exceed Re. 1 per month and in a cheap district it was as low as eight annas. (Vide Colebrooke).

[3]"In the extensive plains of India, a large portion, estimated in the Company's provinces at one-third by Lord Cornwallis, at one-half by others, and by some two-thirds, of land capable of cultivation, lies waste and probably was never otherwise"—Fifth Report, 1812.

[4]"It is necessary to apprise you that all waste lands form a part of the estate of the different landholders, and the boundaries of the portions of these lands that belong to each individual are as well defined as the limits of the cultivated parts of their property, and that they are tenacious of their right of possession in the former as the latter.....It is the expectation of bringing them (waste lands) into cultivation, and reaping the profit of them, that has induced them to agree to the decennial jama which has been assessed upon these lands. It is this additional resource alone which can place the landholders in a state of affluence and enable them to guard against inundation or drought, the two calamities to which this country must ever be liable."—Letter from Governor-General to the Court of Directors, 6th March, 1793.

thinker of England, who was very bitter against the zamindars of Bengal, stated in his evidence that "many of the zamindaris that were settled in 1793 contain a considerable portion of waste land which the zamindars have been permitted to cultivate without any further assessment. The consequence has been that the value of those estates where waste land susceptible of cultivation has been cultivated has increased, which is to a great degree the reason of the very great diversity in what appears to be the value of the estates, the number of years' purchase that one estate sells for beyond another."

Relevant extracts from the evidence of Mr. Mill show what the zamindars did for the extension of cultivation.

Our Committee takes the liberty of making relevant extracts from the evidence of Mr. Mill (*vide* Third Report, Select Committee, 1831) wherein it will be found that Mr. Mill, although very much reluctant, and necessarily guarded, to shower any praise on the zamindars in the matter of extension of cultivation, could not avoid acknowledging certain facts in the interest of historical accuracy. The extracts are as follows, and the reply is that of Mr. Mill:—

Q. 3347—Is it not the fact that cultivation has extended in those provinces where the zamindari system prevails? I believe that is the fact.

Q. 3348—To what do you ascribe that? There can be no doubt that this extension of cultivation implies an increase both of population and of capital. In order to enable the country to extend its cultivation further, capital must have been applied to it, unless old land at the same time had gone out of cultivation. I have no doubt that there has been in Bengal considerable increase of capital and extension of cultivation.

Q. 3351—Do you think the raiyats have accumulated capital? The raiyats cannot have done this without an extension of capital equal to those effects.

Q. 3352—If the raiyats have in any degree accumulated capital, is not that a proof that their situation has somewhat improved? Of some of them no doubt it has.

Q. 3353—Then you would not say that the effect of the zamindari Settlement has been unmixed injury to the raiyats? Where the raiyats have had an opportunity of obtaining fresh lands under certain advantages, they have been able, under the zamindari system, to extend cultivation.

Q. 3361—I rather think, unless I misrecollect, that Lord Cornwallis' statement was that there was only one-third of Bengal under cultivation; he did not, however, mean to say that there were two-thirds

absolutely waste, for a large portion of that which is not under cultivation is still considered as pasture land? It is in one sense waste, but it is not absolutely useless. Lord Cornwallis may have also declared that there was a full third of Bengal that was jungle, and absolutely useless. But within a few years the declaration has been repeated, by people upon the spot, that not above one-third of Bengal is under cultivation.

Q. 3362—Then, according to that statement, there would be one-third under cultivation, one-third in a state of jungle, and one-third in an intermediate state? That is probably something of an approximation to the fact.

Q. 3363—Do you think that those proportions have been much changed since the time of Lord Cornwallis? The proportion, I should say, cannot be very considerably changed, because the amount of land is so great, that the increase of cultivation bears a very small proportion to it, although absolutely it is considerable.

Raja Ram Mohan Roy's evidence.

There were other critics who bore testimony to the extension of cultivation. Messrs. Holt Mackenzie[1] and R. D. Mangles[2] admitted the increase of cultivation, although the language used was extremely reserved. Raja Ram Mohan Roy, perhaps the greatest free thinker of modern Bengal, was in his evidence in 1831, very pertinent in his observation: "If it (the Permanent Settlement) had not been formed, the landholders would always have taken care to prevent the revenues from increasing by not bringing waste lands into cultivation and by collusive arrangements to elude further demands; while the state of the cultivators would not have been at all better than it is now."

Deserted Bengal turned into a rich plain by landlords.

The area under cultivation in 1793 in Bengal and Behar was 31,000,000 acres according to Colebrooke, whereas in 1884 it was 70,000,000 acres. There is now hardly a rod of land which is not under cultivation. The extent of extension was considerable and

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[1]Holt Mackenzie's reply in his evidence on the 18th April 1832—
Q. 2627—Is the cultivation of the land supposed to have improved since the Permanent Settlement? I should say rather extended than improved: it has very greatly extended. I am not aware of any essential improvement, but I believe in some cases there has been improvement.

[2]R. D. Mangles' reply—
Q. 3560—In Bengal has there not been a large increase of cultivation, and great improvements in agriculture since the Permanent Settlement? Yes; a vast increase of cultivation, but I am afraid, not much improvement in the mode of agriculture.
Q. 3633—Still, you admit that the extension of cultivation, and the growth of many articles has been greater in Bengal than in other provinces? The extension of cultivation has been greater.

impressive. There are observers who maintain that it is the cultivators who have brought the country into cultivation. Raiyats clear and cultivate lands; they dig wells and make roads. It was undoubted that their labour was and had to be called for, but unless landlords advanced seed or money to their raiyats, built and maintained embankments, expended money in the construction of roads and water-courses, helped raiyats by suspending or remitting rents and distributing food in the years of scarcity, it was impossible for raiyats to make any profitable cultivation. Those who maintained that zamindars had done nothing also complained that raiyats had no "reserve capital" and were encumbered with a family; but they did not care either to ascertain or to admit the source wherefrom the capital and initiative had come which had transformed the exhausted, deserted, and uncultivated Bengal into rich, populated, and cultivated plains within half a century. This miracle was the work of landlords under the boon of the Permanent Settlement. All this has been discussed in greater details in the answer to question 3. It is clear that the expectation on this account has been amply fulfilled.

Zamindars have shared with raiyats in agricultural prosperity.

Our Committee has already noted that the extension of cultivation has been made under the certainty, as assured by Regulation I of 1793, that the zamindars will "enjoy exclusively the fruits of their own good management and industry." In fact, zamindars have got their returns in the form of rents, but the rise in the value of money and in the value of produce, has gone to raiyats, if not wholly, at least considerably. Zamindars have only shared with raiyats in the enjoyment of the fruits of their "good management and industry." The rents have never proportionately risen with the growth of agricultural prices, brought about by the extension of cultivation, and to that extent raiyats have gained more than landlords. The increased incomes of zamindars from land through the extension of cultivation have, on the other hand, suffered dimunition through the imposition of various cesses and rates.

Bengal of 1793, left to her natural growth, could not be repeopled and cultivated so easily.

There can thus be no doubt that the extension of cultivation has resulted from the initiative of, and laying out of capital by landlords, the increase in the number of cultivators, and the enterprise of tenants. But to indicate the extent played by each of the above factors, separately, in the extension of cultivation is almost a baffling task. It is said that the reclamation of jungles and extended cultivation are due to the increase of population which has taken place in Bengal.

It is true that the increase of population leads to extension of cultivation, especially when agriculture is the main industry of Bengal. But the Bengal of 1793 could not be re-peopled, if she were left to her natural growth. The significant historical role of the zamindar's capital in rescuing the country from being converted into jungles should receive recognition. It is to be remembered that land lying fallow for three years or more tends to be turned into waste land, needing reclamation at a great outlay of capital. Land neglected grows its own weeds. Moreover, "there is not a shadow of evidence in support of the statement that inferior lands have been occupied and cultivated as population increased. The increase of population has not preceded but followed this occupation and cultivation. It is not the pressure of population on the means of subsistence which has led men to cultivate inferior soil, but the fact that these soils were cultivated in another way, or taken into cultivation, made an increased population possible. How could an increased population have stimulated greater labour in agriculture, when agriculture must have supplied the means on which that increased population could have existed? To make increased population the cause of improved agriculture is to commit the absurd blunder of confounding cause and effect."[1]

Population increased under the shelter of Permanent Settlement.

Our Committee does not pretend to be dogmatic on this point, but we are satisfied, and desire to impress the Commission, that Bengal, as she was situated in 1793, received the incentive to multiplication of the population under the shelter of security provided for by the Permanent Settlement in the matter of extension of cultivation. But the population, when it increased, again in its turn gave a stimulus to raiyats to increase their incomes by attempting to cultivate the waste lands. In this wise, after a certain stage, both the factors go on complementing each other. The increase of population in the cultivating classes of Bengal bears testimony to the wide margin left by landlords in the matter of fixing the amount of rent. Had cultivators been rack-rented, the growth of population and subinfeudation among raiyats would have received a severe setback.

Permanent Settlement assessment.

Q. 7. The amount of land revenue assessed from Bengal, Behar and Orissa for the year 1790-91, it is said, was Rs. 2,68,00,989. According to Baden-Powell, the Permanent Settlement revenue was

[1]Thorold Rogers's Political Economy, P. 153, Quoted by Sir Ashutosh Mukherjee in his paper, "The Annals of British Land Revenue Administration in Bengal, (1698-1793)."

about Rs. 2,85,87,722.[1] The figure of Rs. 2·85 crores is accepted by Mr. O'Kinealy who was a close critic of landlords (*vide* Report of the Rent Law Commission, Vol. II). The zamindars were to get one-eleventh of the rental.[2] If the sum of Rs. 2·68 crores were assessed as land revenue, the raiyati rental was about 3 crores of rupees; if the land revenue were Rs. 2·85 crores, the raiyati rental was above Rs. 3 crores. According to Colebrooke, the gross rental of raiyats was Rs. 4 crores but the raiyati rental was likely to be less, as there were irregular tillers and agricultural labourers.

Bengal of 1793 includes Behar and old Orissa.

It may be mentioned in this connection that the Decennial Settlement, made permanent in 1793, extended to Bengal, Behar and Orissa (the Orissa of those days being the tract between the Rupnarain and Subarnarekha rivers, now in the Midnapore district). Bengal, Behar and (old) Orissa, granted in 1765, went to Fort William and they together formed the Presidency of Bengal. At present Behar including Chota Nagpur is a separate province. And in comparing the Bengal of 1793 with the Bengal of to-day, this transformation is to be taken into account, although in the questionnaire there is no such evident recognition.

The raiyati rental of Rs. 12 crores analysed.

It is said that Rs. 12 crores represent the raiyati rental. Our Committee understands that this is the sum paid to the landlords, zamindars or tenureholders as the case may be, by the raiyats. Our Committee may assume that the figure of Rs. 12 crores comes from raiyats of the permanently settled estates, temporarily settled estates and khas mahal estates. Roughly 61 thousand square miles are at present permanently settled in Bengal; 5 thousand square miles are

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[1]Mr. Shore conclusively proves that the figures of Moghul assessment from 1756 were unrealisable as they were excessive. In 1762 the revenue was 80 lakhs of rupees in arrears. It will be seen that the Permanent Settlement assessment was excessive beyond any historical record as will be seen from the following:—
1762-63—Kasim Ali Khan—Rs. 2,41,00,000 assessed—Rs. 65,00,000 collected.
1763-64—Nanda Kumar—Rs. 1,77,00,000 assessed—Rs. 77,00,000 collected.
1765-66—Muhammad Reza Khan—Rs. 1,60,00,000 assessed—Rs. 1,47,00,000 collected.

[2]There were many writers who referred to nine-tenths of rental as land revenue under the Settlement of 1793. Baden-Powell observed: "the Settlement, thus made with the zamindars for one consolidated lump sum of revenue, was supposed, in theory, to represent nine-tenths of what they received directly in rent from the raiyats, the remaining tenth being allowed to them for their trouble and responsibility. In reality the zamindar, when made landlord, got all the increase of rents (as the raising of rents gradually came to be understood), and in any case he got the benefit of all extension of cultivation, as well as all the "sayer" items from fisheries, fruit, grazing, etc., and the benefit of all invalid grants (under 100 bighas) which he chose to resume" (p. 432-33, Vol I, Land Systems of British India).

settled direct by Government; and 5 thousand square miles are temporarily settled. Out of a little over Rs. 3 crores of land revenue, a sum of Rs. 2 crores and 15 lakhs comes from permanently settled estates, Rs. 71 lakhs from khas mahal estates and Rs. 26 lakhs from temporarily settled estates. That is the position of Bengal to-day where the raiyati rental is Rs. 12 crores. It is not true to say that the raiyati rental of Rs. 3 crores in the Bengal of 1793 has increased to Rs. 12 crores in Bengal to-day. To arrive at a true assessment of the ratio of increase, the raiyati rental of the Bengal districts, including the district of Midnapore in 1793, should have been found out.

The increase in raiyati rental is due to (1) change in the value of money, (2) increase of area of cultivation.

Our Committee, however, begs to state that the vast increase in the raiyati rental is primarily due to the following factors:—

(1) The change in the value of money.

(2) The increase of the area under cultivation.

The rupee to-day is not worth one-third of its exchange value at the time of the Permanent Settlement. If rice were sold at 8 annas to 12 annas per maund, it is now sold at more than Re. 1-8 to Rs. 2-4 per maund. When in Bengal proper money rents prevailed in 1793, a mere change in the value of money brings the rental of Rs. 3 crores to Rs. 9 crores preserving the rentals at the same pressure.[1] If one-third of Bengal were cultivated, two-thirds awaiting cultivation, the area of tillage at present extended nearly three times. If the area under cultivation is modestly taken as being doubled, the raiyati rental increases to Rs. 6 crores. The area of tillage has, in fact, been trebled. If the rupee, as is shown, is worth one-third of its former exchange value we get the rental of Rs. 18 crores to maintain the old pressure of rental. Over and above, the exports which enrich a country have increased at a very rapid pace, and to a very flattering amount.

Measurement of the bigha.

According to Grant, the rental of Bengal was one-fourth of the gross produce. In his opinion, the gross produce of one bigha of land was Rs. 6, and as such the rate of rent amounted to Re. 1-8 per bigha. This bigha measurement has inherent difficulties. The measurement was generally made by a bigha in 1793 which contained twenty biswahs. This was the statement of Mr. Colebrooke. We find that the same measurement of bigha is given in the "Ain-i-Akbari" (that

[1]Ten maunds of rice was a large produce from one bigha in 1793. If a maund was valued at 12 annas, the return in money came to Rs. 7-8. As an average Grant estimated at Rs. 6. The same 10 maunds gives to-day more than Rs. 20 to Rs. 25 per bigha. Thus if the rental of a bigha is increased from Re. 1-8 to Rs. 5, the same pressure is maintained.

is, 20 biswahs make one bigha). It consists of three thousand six hundred square guz, one guz consisting of forty-one fingers (it was named the ilahee guz). It will be found on calculation that the acre was roughly equal to one and one-third bigha.[1] If this were so, the raiyati rental, as given by Grant, comes to nearly Rs. 2 per acre. If the old measurement is neglected, and bigha be taken as roughly one-third of an acre, (as accepted by section 92 of the Bengal Tenancy Act) the raiyati rental comes to Rs. 4-8 per acre which exceeds the average of to-day. There are many writers who have calculated bigha as one-third of an acre, but the raiyati rental, as shown from abstracts of raiyats' accounts (given in Harington's Analysis), was evidently based on the old measurement of bigha.

According to Shore's estimate rent per bigha was to be nearly Rs. 3 at the Settlement.

Unless the measurement of bigha is appreciated, the pressure of rental cannot be understood. In the minute of the 28th June, 1789, Mr. Shore mentions from an abstract of raiyat's account, taken nearly eight years ago (that is about 1781-82), that the rent of seven bighas, twelve cottahs and seven chattaks of land was more than Rs. 14 excluding other forms of cesses, imposing an extra burden of Rs. 8 which were included in the assul jama at the time of the Permanent Settlement. This is only mentioned to indicate that if the rental per bigha at Re. 1-8, as estimated by Grant, be taken as prevailing at the Settlement of 1793, it will rather be an under-estimate. It is undoubtedly true that there were places where the rental was lower still. The very fact that the rents of land were regulated by known rates, called "nirkh", gave rise to multiplicity of rates. About the "nirkh" we shall have occasion to mention in greater details in the subsequent answers.

Significant statement of Mr. R. Knight, Editor of the "Calcutta Statesman".

Our Committee has only tried to show that the increase of the quantum of raiyati rental was due to the change in the value of money

[1]According to this measurement it will be found that in the Permanent Settlement the assessment was much too high. The area under cultivation was 18 thousand square miles, according to Grant whose figures generally erred on the side of exaggeration. Thus the area was 115·20 lakhs of acres. Taking Akbar's measurement we find roughly one and one-third bigha is equal to one acre. Accordingly the Permanent Settlement assessment ought not to be more than Rs. 230 lakhs taking the rental per bigha as given by Grant. At the initial stage landlords were thus burdened with an extra assessment for a good sum, whether we accept 2·68 crores or 2·85 crores as Permanent Settlement assessment. Akbar's bigha contains 3,600 sq. illahi guz; the bigha which Colebrooke in his estimate of the profits of cultivation took, contains 1,800 sq. yards. That 3,600 illahi guz is equal to 3,025 square yards. The former one bigha is roughly equal to modern 2 bighas.

and to the extension of the area of cultivation, and also that the rate of raiyati rental has not increased appreciably throughout the province, as will be evident from Shore's figures, although there are localities where rents have been enhanced in response to the rise in the value of the produce. When we know that the raiyati rental of to-day is Rs. 3 per acre, it can easily be proved that the general enhancement in the average rate of rent has been practically nothing. The rents and other various kinds of cesses were consolidated into a specific sum, and accordingly, the raiyati rental in developed districts was not appreciably lower than the average of to-day. Particular districts may be found out where enhancement has responded, although feebly, to the rise in the value of produce. Mr. R. Knight, Editor of the *Calcutta Statesman*, in his prefatory note to Mr. Colebrooke's "Husbandry of Bengal" (reprinted in 1884) commented: "With this essay of Mr. Colebrooke's in our hand, the fact becomes as clear as the noon day sun, that the zamindar has so apathetically and carelessly, or else so timidly, asserted his rights, that he has allowed his rent to fall almost to nothing. A rental of four crores in 1793 would represent twenty-four crores to-day, from the mere increase of area under cultivation, and the change in the value of money."[1]

The increase of the quantum of rent has been due to a multiplicity of factors.

Zamindar's role in the economic development of the country, which has been dealt with in the answer to question 3, has undoubtedly added to the increase of the value of produce, although other numerous factors, such as the increase of population, greater intercourse facilitated by steamers and railways, security provided for by the Administration, etc., are not, of course, to be whittled down. Accordingly, the increase of the quantum of rent has been more due to the other factors, already mentioned, than to the enhancement of rent, a pet argument not infrequently advanced without taking into consideration the economic development of Bengal in the nineteenth century. Moreover, the increase of rent, necessitated by the increase of the value of produce, is not strictly "enhancement of rents", because landlords were asked by the Regulations of 1793 to grant leases at the "pargana rates"

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[1]Mr. Knight's calculation on the basis of Mr. Colebrooke's figures runs as follows:—

1793		Extended tillage		Change in Money	1884.
Rs. 4,00,00,000 (as gross rental of raiyats).	×	2	×	3 =	24,00,00,000

This can be had without any enhancement at all. The zamindar has asserted his rights in enhancing rents so timidly that "it is doubtful if the rental represents even one-twenty-fifth" in 1884, whereas at the time of the Settlement of 1793 the proportion of rents to harvests was one-eighth. In Mr. Knight's opinion, the zamindar is ignorantly denounced as rack-renting the soil, because the value of produce entitles him to higher rental.

which had reference to the capabilities of soil. This aspect of the question will have to be discussed later on in details. But it is enough to state here that the expression, enhancement of rent, involves, ordinarily, taking away the profits of cultivators to the extent the rent is enhanced, but in our country, due primarily to the fact that agriculture was in its lowest ebb, the enhancement of rent did not in any way contribute to the increase of the old pressure, on the rental. Hence, there has been no effective enhancement of rent. There was room for increase; there were directions for increase; rather the wide margin left for enhancement was not fully taken advantage of, as was pointed out pertinently by Mr. R. Knight. The expression, enhancement of rent, should, accordingly, be understood in that light.

Q. 8. In our answer to question 3, it has been specifically stated what duties have been assigned by Permanent Settlement Regulations of 1793, and how far landlords have discharged their functions, and to what extent the handicaps imposed by the tenancy legislations are putting strain on them. They need not be recited here, but they will undoubtedly indicate if the zamindars have conducted themselves with moderation towards their tenants.

Severity of the measures so far as landlords were concerned.

The question under discussion raises another interesting historcial point, whether landlords received equitable and generous treatment from Government. It is an open historical fact that the Settlement of 1793 was thrust on zamindars under extreme heavy responsibilities. The responsibilities were: (*a*) ten-elevenths of the rental would go out as Government revenue; (*b*) there would be no concession shown in the matter of punctual payment of the specific sum; (*c*) the estates will be sold in discharge of the arrears of revenue. The extreme severity will be evident from the following facts; (1) in the pre-Settlement days the collections had hardly reached the assessments; (2) estates were never sold in discharge of arrears; (3) the increase of land revenue had always resulted in the increase of rental, but the pattas which landlords were asked to execute would specify the amount of rent which shall not be liable to enhancement during the currency of the lease. The laxity in the Moghul administration could be set off against the severity of the measures adopted. The Company meant to observe the Regulations and Lord Cornwallis set up Courts to see the laws obeyed and observed. The Sale Law of the Permanent Settlement led to the following state of things, which is put by Mr. J. McNeile in a Memorandum on the Revenue Administration of the Lower Provinces of Bengal: "In 1796-97 lands bearing a total revenue of sicca[1]

[1]Speaking roughly, three company's rupees equalled two siccas. The sicca contained 176·13 grains Troy, and the rupee afterwards introduced in 1835, 165 grains of pure silver—vide Baden-Powell, Vol. I, p. 440, Footnote.

Rs. 14,18,756, were sold for arrears, and in 1797-98 the jama of land so sold amounted to sicca Rs. 22,74,076. By the end of the century, the greater portions of the estates of the Nadia, Rajshahi, Bishnupur, and Dinajpur Rajas, had been alienated. The Burdwan estate was seriously crippled and the Birbhum zamindari completely ruined. A host of smaller zamindars shared the same fate. In fact, it is hardly too much to say that, within ten years that immediately followed the Permanent Settlement, a complete revolution took place in the constitution and ownership of the estates which formed the subject of that Settlement."[1]

Landlords' lenience shown at every stage.

If zamindars had returned the same "generous" treatment towards raiyats in the matter of realisation of rents, the results would have been devastating. Zamindars were not asked by the Regulations to extend "the same equity and generous treatment received from Government" to raiyats.[2] On the other hand, zamindars allowed tenants to default; they only resorted to law courts as the last resource and avoided them, whenever they could; they even went into borrowing to satisfy land revenue without rack-renting raiyats. Landlords have often been rebuked for realising their legitimate dues; their "oppression" has extended only to that extent. Since 1793, landlords have been wanting an effective machinery for realisation of rents, but in the nineteenth century they were restricted by two comprehensive Rent Acts, the one in 1859 and the other in 1885, but nowhere has the effective machinery been provided for. It was only through the lenience of landlords that a defaulting tenantry has enjoyed all the rights open to them, but at the Settlement there was no provision for permitting the tenants in arrears in full possession of lands. The rights of khudkasht raiyats were contingent on punctual payment of rent.

Attempts to limit landlords' rights.

Our Committee does not find that Government has shown any specific concession to landlords as a body. They (landlords) were required by Government at every stage; and their co-operation was appreciated from time to time. Landlords had to find out their rights

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[1]One effect of the Sale Law was to reduce very greatly the size of the zamindaris, for up to 1845 they were sold piecemeal. Taking the figures for 1882-83, out of a total number of 110,456 estates borne on the roll of 38 districts of Bengal proper and Bihar, 457, or 0·41 per cent. only are great properties with an area of 20,000 acres or upwards; 12,304 or 11·1 per cent. range from 500 to 20,000 acres; while the number of estates which fall short of 500 acres is 97,695 or 88·4 per cent. of the whole—vide Baden-Powell, "Land Systems of British India," Vol. I.

[2]It would be interesting to note that in all such matters of conducting fairly and equitably, it was a language of "trust and hope"; there were no definite directions forming the basis of the given rights.

from interpretation of statutes in law courts. Their rights were undoubtedly strengthened by the Judiciary, but the strong Executive was always alert to limit the rights of landlords. We shall discuss this in our subsequent answers. It is true that cordial relationship has generally existed between Government and the landholding community, and there were strong evidences that Government was in the nineteenth century alive to the useful services rendered by landlords. And naturally Government showed sympathetic consideration now and then.[1] If zamindars would not have acted as patrons of raiyats, the improvement of agriculture, which we witnessed in Bengal, would have remained a dream. Even fertile lands require tilling, and in the task of tilling, cultivators require assistance and guidance. Government was unequal to render assistance; if landlords were not encouraged by the Permanent Settlement, they would not, and perhaps could not, have functioned as useful agencies. Raiyats themselves had no reserve capital. In the face of these historical facts, the flinging of rebuke and calumny at the landlords as a body has hardly any basis.

Q. 9. The major part of the question has already been answered. Our Committee has shown that zamindars have admirably performed the functions imposed by the Permanent Settlement, and that they have not stopped at that. The handicaps thrown by various factors, legislative, historical and social, have also been explained. The only aspect that has not been dealt with refers to "absenteeism."

What "absenteeism" means in Bengal.

It is a very pet charge against landlords that they live away from the estates, and that for all the evils of absenteeism landlords themselves are responsible. With a view to understanding "absenteeism" the following factors should be recognised:—

(1) One landlord has generally estates spread over many districts.

(2) Through a system of subinfeudation both among landlords and raiyats and through the grant of positive rights to occupancy raiyats by tenancy legislations, the position of landlords and raiyats should be more clearly grasped. If a tenureholder intervenes, a superior zamindar is not the real "landlord" of the occupancy raiyat under the tenureholder. If there is an under-raiyat, the tenureholder is not the real "landlord" of the under-raiyat; it is the occupancy raiyat who is the "landlord." If the superior zamindar in the former case lives away from the occupancy raiyat, he is not an "absentee landlord," as is understood by the expression. Because, even if he lived close to the occupancy raiyat, he had no access to the latter, nor could the rent of the occupancy raiyat be realised by him. In the latter case, if the

[1]The Court of Wards' Estates Act came at a very late stage in the nineteenth century.

tenureholder lives away from the under-raiyat, he is not an absentee "landlord," as the landlord of the under-raiyat is the occupancy raiyat. If this system is appreciated, it will be found that there is hardly any absenteeism in Bengal. The zamindar or the tenureholder, who has direct connection with the raiyat, generally lives in his principal mahal; at least one of the family members who is charged with the zamindari work resides there. If the under-raiyats of Bengal have absentee landlords, the responsibility goes to occupancy raiyats who are *de facto* "landlords" in any social science, although they are advertised as "raiyats" under the shelter of the Bengal Tenancy Act. It must be a very bold, rather rash, assertion, that "absenteeism" to any considerable extent prevails in Bengal if the scheme of subinfeudation, especially among tenants, which is encouraged by the Bengal Tenancy Act, is appreciated.

The fiction of "absenteeism" dies away if the last grade of tenureholder resides near the raiyat.

Moreover, landlords whose estates are scattered throughout the province and even beyond the province are bound to be "absentees." Those who have direct connection with raiyats generally reside in villages; even if they are absent, they have their family representatives. The fiction of "absenteeism" dies away if the last grade of tenureholder resides near about the principal "cutcherry." Under-raiyats and bargadars who have been settled by the higher grade of raiyats can get no relief, through the operation of the Tenancy Act, even if landlords (that is, zamindars and tenureholders of the said holdings) are not absentees; when they get relief in the form of water facilities, better roads, and other beneficent works, that is pure charity on behalf of landlords, the advantages, if any, being reaped by occupancy raiyats.

Landlords as torch bearers of culture and education.

In Bengal, landlords have become the torch bearers of education and culture. Their city establishments have been necessitated by the fact that they are to receive new ideas and to get their sons trained with the best kind of education. Moreover, the health of the majority of Bengal villages is, at present, far from satisfactory. Malaria and other preventible diseases are working havoc. The task of reforming rural Bengal is now left to Government, and the "success" of Government efforts can be measured by the extent of rural depopulation and exodus. It has not, therefore, been possible for landlords to be always confined to the rural surroundings, and for all this Bengal has gained more than she has lost. The middle classes, who form the pride of Bengal, have sprung from the tenureholding classes, and the urban training and influence on them have added to the richness of

Bengalee culture. Landlords have been patrons of such learning. To achieve this, some amount of absenteeism was inevitable.

With these observation our Committee urges on the Commission to consider the question of absenteeism in its proper bearing.

Permanent Settlement for the benefit of the nation.

Q. 10. In our previous replies, especially in answer to questions 3 and 5, we have maintained that the Permanent Settlement has contributed to the economic development of the country, and that it has not also financially crippled the resources of the Province. Because of the Permanent Settlement we have got stronger and prosperous middle classes and contented tenantry paying a very low rate of rent.[1] Bengal has witnessed agricultural prosperity earlier than the other provinces in the nineteenth century; Bengal could enjoy the blessings of British rule because of her land system. In assessing the comparative effects of the Bengal Settlement of 1793 and Pitt's Permanent Settlement of land tax in England, Mr. R. C. Dutt in the "Economic History of British India" summed up the position in the following epigrammatic way: "In England the Settlement benefited the landed classes only, in Bengal the Settlement has benefited the whole agricultural community, the entire peasant population shares the benefit and is more prosperous and resourceful on account of this measure. In England the Settlement limited the tax on one out of the many sources of national income, in Bengal it has afforded a protection to agriculture which is virtually the only means of the nation's subsistence. In England, it precluded the State from drawing a large land

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[1]The benefits of the Permanent Settlement of land revenue were summed up by William Muir, Senior Member of the Board of Revenue of the North-Western Provinces, in a Minute, dated 1861: (*a*) saving of the expenditure of periodical settlements, (*b*) deliverance of the people from the vexations of resettlements, (*c*) freedom from depreciation of estates at the close of each temporary settlement, (*d*) prosperity arising from increased incentive to improvement and expenditure of capital, (*e*) greatly increased value of landed property, (*f*) contentment and satisfaction among the people. Samuel Lang, Finance Member to the Government of Lord Canning advocated the Permanent Settlement on higher moral considerations: "We do not exist as a Government merely to get the largest revenue we can out of the country, or even to keep the mass of the people in a state of uniform dead level, though it should be tolerably a happy and contented one, as a peasant tenantry under a paternal Government. If we give a Permanent Settlement, we lay the foundation for a state of society, not perhaps so easily managed, but far more varied and richer in elements of civilisation and progress. We shall have gradations of society, from the native noblemen of large territorial possessions down through the country gentlemen of landed estate to the independent yeoman, the small peasant proprietor, the large tenant with skill and capital on a long lease, the small tenant on a lease, the tenant-at-will, and the day labourer."

Because of the Permanent Settlement, the Sepoy Mutiny could not catch conflagration in Bengal. "The village system of the North-West Provinces collapsed at once on the withdrawal of British authority: the anarchy threatened by sepoys in Dacca, Chittagong and even Behar, dwindled away before the impassive, not to say the loyal, behaviour of several of the great zamindars" (Saturday Review, October 22, 1881, quoted with approval by Sir Ashutosh Mukherjee).

tax to be spent in the country for the benefit of the nation; in Bengal it has precluded from increasing the annual economic drain of wealth out of the country. In England, it saved the landlord class from added taxation, in Bengal it has saved the nation from fatal and disastrous famines." In the foregoing answers our Committee has tried to prove that the claim of Mr. R. C. Dutt finds corroboration from historical facts.

The doctrine, "greatest good of the largest number", is vague; it has no relevancy in judging an economic system.

The expression, "the greatest good of the largest number," is extremely vague in political science and has no relevancy in judging an economic system. Utilitarianism was formulated into a theory by Jeremy Bentham who used it as a standard for criticising the legal system of his day, for Bentham was a legal reformer before he became a political thinker. According to the school of Bentham, utility is that which promotes the greatest happiness of the greatest number. Happiness is hard to be defined. Moreover, this happiness being subjective cannot serve as a foundation for objective rights. Those who are aware of the recent tendencies in jurisprudence know that individualism is abandoned, and that social solidarity is the law of future readjustment.[1] This objective understanding, which may be called a sociological approach, bids adieu to the doctrine of "the greatest good of the greatest number."[2]

Whenever an economic system is introduced, it is favoured as being best "adapted to improve the use of the available resources of production, both by advancing the efficiency of production itself and by affording an outlet for the distribution of the largest possible amount of real wealth or material welfare."[3] An economic system is never judged by its appeal to the ethical doctrine—"the greatest good of the greatest number."

The Settlement of 1793 has fulfilled its purpose.

Landlordism under the shelter of the Permanent Settlement was the best agency for the most advantageous exploitation of the resources

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[1]Vide Political Theories (Recent times), by Merriam Barnes & others, p. 176.

[2]"Dethroned from the high seats of philosophy, it (utilitarianism) lives on as a powerful principle in the sphere both of personal conduct and of social effort."—Prof. G. D. H. Cole's "Some Relations Between Political and Economic Theory," p. 45. Utilitarianism rests on the notion that each man must be regarded as the best judge of his own happiness. This view implies that happiness is to be found in purely individual satisfaction.—p. 55.

[3]"All economic systems are ways of applying the power of human labour by hand and brain, to the available instruments and materials of production. The economic problem for any society is that of establishing the right relations between men and the things upon which they are to labour, so as to make the most advantageous use of the available resources of production, including both men and things."—Prof. G. D. H. Cole's "What Marx really Means", p. 76.

of production. The East India Company tried many other ways, but they failed before the inexorable law of economic forces. It was only through the help of landlordism that capital flowed in; labour, which was not then plenty, was exercised in the clearing of forests, the draining of swamps, the making of canals and roads, the development of agriculture, of cottage industries and internal trade. The fields were then "saturated with the effects of human labour," employed by capital. Thus, scarcity grew into abundance, agriculture improved, population increased. The Permanent Settlement as an economic measure can only be judged and justified by the standard referred to. "No economic system can develop its potentialities except with the aid of a legal system in harmony with its needs. It cannot function successfully unless individuals and classes who are its active agents are protected in, or compelled to, the rights and duties assigned to them under it. In other words, any economic system requires a legal system whose concepts and precepts correspond to the needs of the economic situation."[1] In our province, bad laws often hampered the play of the Permanent Settlement, and we shall explain this point of view in a subsequent answer.

Factors to be noted in evaluating the revenue system introduced by Permanent Settlement.

Our Committee, therefore, submits that the Permanent Settlement has led to a revenue system which is to the benefit of the province. In appreciating the excellence of the revenue system the following factors should be specifically taken into account:—

(1) Land acquired value, and the security for credit that it furnished appreciably mitigated the intensity of distress. The people are now in secure possession of land; their rights are on record. "The whole outlook of the rural community was influenced by the fact that it had rights which were rapidly becoming valuable."[2] In the pre-Settlement days, land of the raiyat was practically unsaleable; "it was of less value than the crop it yielded; in short, it was a burden involving liabilities for rent and not an object of desire which could be pledged for credit; when famines came, it was not the land which was sold; the cattle and household goods were disposed of, ornaments were

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[1] "An analysis of any society will always reveal the close connection of its institutions and culture and the method of satisfying material appetites. Any given system of economic relationships will require political and social forms to develop all that is inherent in it"—Prof. Harold Laski in "The State," pp. 108-109. It is held that "the State is an organ of community; it commands only because it serves; it owns only because it owes; it creates rights as the agent of society for the creation of rights" (*vide* MacIver's "The Modern State", page 480), but "in sober realism the State never acts, it is acted by those who have become competent to determine its policies." Every movement is "fought in the name of the universal principles of right," but the purpose realised corresponds with the character of the State. It is, therefore, the function of the State to develop the system which it has brought into being.

[2] Vide Report of the Royal Commission of Agriculture in India, 1928.

pledged, and, when these resources were exhausted, the people deserted their villages and their fields and wandered in search of food."[1] With rights defined, rent demand practically fixed, with protection established against arbitrary ejectment, cultivator has a clear assurance that the fruits of his labour will be left to him and, accordingly, the value of land has enormously risen.

(2) Borrowing by the cultivator is inevitable, because he lives on the margin of subsistence, and has "to wait for half a year before he receives the return of his labour, and in far too large an area when there is only one crop in a year, the interval between successive receipts may be full twelve months." The major part of borrowings is met by private moneylenders who have interests in land or who have the desire to be associated with land. Co-operative banks and Government sources provided by various Acts such as Land Improvement Loans Act, do not satisfy the needs in any substantial way and have proved failures. Banks and Government Acts look to the assets of cultivators; local landholders and moneylenders often look to the character of cultivators. There are cultivators who may not have the requisite assets to get a loan under stringent conditions of banks, but they are being hereditarily helped by landholders whose confidence in them and desire for help are encouraged by extra-commercial considerations. This personal touch was invaluable where Government do not and cannot have that affectionate bond. As village bankers landholders' services are inestimable and have been amply recognised by the Royal Agricultural Commission and Banking Committees, provincial and central.

(3) The Permanent Settlement has provided Government with an agency wherefrom the land revenue demand was assured and safeguarded against possible remissions or suspensions of rent in emergent crisis, a spectacle which was frequently witnessed in the provinces without the Permanent Settlement. Landlords also function as an agency for the collection of cesses; in Bengal they are more than that. Cesses (public works, road or education cesses) are realised by Government from landlords who are in their turn entitled to realise the quota payable by raiyats. Thus a system is introduced whereunder Government is assured of the full amount of demand under cesses without undergoing any expenditure and trouble, but landlords have to bear the expenses and troubles of collection of cesses and losses consequent on their delayed collections or non-realisations. Thus, Government gets the revenue peacefully whereas landlords become the butt of ridicule and calumny in the countryside for the realisation of dues, or even for demanding payment of dues. Landlords, in this manner, form a stable bulwark against the stress and strain of public agitation and economic crisis being directly experienced by Government.

[1]Ibid, p. 9.

(4) For a century and more, the province entirely depended on the revenue system introduced by the Permanent Settlement. It is only in recent times that Government is introducing measures for improving the position of raiyats but with no visible results. The Department of Revenue, Agriculture, and Commerce of the Government of India, commenced to function in 1871. But it did not exercise "any real influence on the problems of agricultural development." In 1880 the Report of the Famine Commission revived interest but most of its recommendations were neglected. The Commission's advice that "it should be the policy of Government to advance money freely and on easy terms on the security of the land whenever it can be done without serious risk of ultimate loss" led to the enactment of laws—the Land Improvement Loans Act of 1883 and the Agriculturists' Loan Act of 1884—which, in the opinion of competent observers, have failed to achieve the purpose. The report of the Famine Commission of 1901 was responsible for the Co-operative Credit Societies Act which was originally passed in 1904 and afterwards amended in 1912. The Usurious Loans Act was passed in 1918 which is now replaced by the Bengal Moneylenders' Act of 1933. A separate department of agriculture in Bengal was constituted in 1885 and it was not until 1904 that a Deputy Director of Agriculture was appointed. The Famine Code is of recent origin. All this is recited to show that until recent years, the improvement of the countryside was left to private initiative and enterprise, and that Government did not take up the improvement of agriculture seriously. Even the feeble effort, that Government has put forth in recent times, has not produced the desired results, as will be evident from the reports of the Royal Agricultural Commission and the Bengal Provincial Banking Enquiry Committee.

Criterion for judging the Settlement.

Our Committee has shown that in assessing the Permanent Settlement as an economic measure, it will have to be found out if it has served the allotted functions, that is, the most advantageous use of the resources of production. To import sentiments expressed in the question, viz., if the Settlement is for the greatest good of the largest number and if it has resulted in the advantage of the landlords at the expense of the tenants, in the evaluation of the Permanent Settlement is to confound the issue and to supply materials for wrong approach and imperfect understanding. A measure stands condemned in so far as its efficiency in production is impaired. We shall show later on how the Permanent Settlement has been largely discredited, not by its intrinsic defects, but by the unscientific tenancy legislations passed from time to time. To understand the Permanent Settlement we shall have to know to "separate the sheaf from the corn."

Q. 11. The question under discussion raises some of the commonplace charges against the Permanent Settlement indulged in by critics. Charges, repeated frequently, do not assume the character of truth. Let us examine the charges seriatim:

The percentage of rental intercepted by private landlords is not high.

(*i*) It is said that nearly 80 per cent. of the income from land goes to zamindar under the shelter of the Permanent Settlement. The gross rental of raiyats is about Rs. 17 crores (to be exact, 16 crores, 99 lakhs in 1936-37). This huge figure of gross rental, as shown from road cess returns is high, and it includes assessment on coal mines, tea plantations, and the rental intercepted by under-raiyats and bargadars and khas mahals, and accordingly in the above calculation allowances for these factors should be taken into consideration. It is well known that the rentals paid by under-raiyats and bargadars (settled by the higher raiyats) and by raiyats in khas mahal areas, do not go to the private landlords. Recognition of this comes from the fact that the raiyati rentals are estimated at about Rs. 12 crores. Our Committee is perhaps entitled to assume that something like 10 to 11 crores is intercepted by private landlords; definitely less if it is a matter for private landlords of permanently settled estates. We are making the assumption that the raiyati rental in khas mahal areas payable to Government as landlord is included in the raiyati rental of Rs. 12 crores. This sum of 11 crores, if we accept it as the sum intercepted by private landlords, is only something like 65 per cent. of the gross rental. Out of this 11 crores, the sum of nearly 3 crores of rupees goes out to Government as land revenue, and the percentage works out roughly at 27 per cent. According to the Taxation Enquiry Committee, land revenue should not exceed 25 per cent. of the rental. The balance (that is, the sum of Rs. 8 crores) is distributed among zamindars and a host of tenureholders[1]. And this 8 crores is less than fifty per cent. of the gross rental of Rs. 17 crores. Moreover, in judging a landlord-tenant system it is not very relevant to say that 80 per cent. of the income goes to zamindars, the points to be noted are that (1) if the pressure of rental is heavy, (2) if the share realised from landlords is negligible or not. Our Committee has, however, shown that the private landlords do not intercept 80 per cent. of the income from land. They intercept at the most 65 to 70 per cent. of the gross rental out of which more than 25 per cent. goes out as land revenue (being the ratio of Rs. 3 crores of land revenue to Rs. 11 crores as raiyati rental), 15 per cent. as collection charges and at least 15 per cent. as unrealisable assets. Thus the sum that remains

[1]The number of estates paying land revenue was 101,776 (in 1933-34). According to the Census Report, non-cultivating proprietors taking rent in money and kind number 783,755; the cultivating owners number 5,317,973; the tenant cultivators 873,094; and agricultural labourers 2,874,804.

for appropriation by landlords is distributed over a large body of persons, and that, in an undoubted manner, adds to the national wealth of the province by the increased purchasing power of the persons concerned. This does not involve "a tragedy of waste," as the concentration of capital in a few hands is not possible in Bengal through a system of subinfeudation among landlords, partitioning of estates into several shares, absence of primogeniture, and sale of estates in default of payment of revenue in the case of zamindars and rent in the case of tenureholders.

"Subinfeudation of tenancy" explained.

(*ii*) The expression, "subinfeudation of tenancy", carries two-fold meaning: subinfeudation among landlords and subinfeudation among raiyats. Both tenureholders and raiyats are tenants under the Bengal Tenancy Act, but the tenureholder belongs to the community of landlords. In so far as subinfeudation among landlords has taken place, it has been encouraged by the Permanent Settlement Regulations. Because, it was a settled policy behind the Regulations of 1793 to see powerful landed magnates, split up into different estates, falling into the hands of several landlords. There was an Imperial consideration in encouraging subinfeudation, because the prevalence of territorial magnates exercising sovereignty in their localities was a menace to the ruling power. This diffused ownership of land through a system of subinfeudation was historically necessary, and it has justification in broadening the basis of agrarian capitalism: the middle classes thus developed a direct stake in the system. But the system of subinfeudation among raiyats, which was discouraged by the Permanent Settlement, grew up under the shelter of the Tenancy Act. At the time of the Permanent Settlement, the concept of a non-cultivating raiyat was not existent; the practice of tenants underletting their lands to other peasants has "grown up by abuse," and that is highly detrimental. "Wherever the system of an intermediate tenantry subsists, the peasant is indigent, the husbandry ill-managed." The Permanent Settlement asked landlords to grant leases to cultivating raiyats. The Bengal Tenancy Act, in scorn of all lessons in land economics, gave legal sanction to the practice of subletting and encouraged the growth of under-raiyats. To apportion the blame to the Permanent Settlement, as is sought to be made in the question under discussion, is to misinterpret the Regulations. The real mischief in the matter of subinfeudation among raiyats is done by the Tenancy Act which permitted occupancy raiyats to sublet and to transfer, and gave freedom to occupancy raiyats to convert themselves into non-cultivating raiyats or to degenerate themselves into under-raiyats.

The pressure of rental, far from being enhanced, has considerably come down.

(*iii*) Out Committee has shown that there has been so-called enhancement of the raiyati rental principally because of the extension of cultivation and the fall in the value of money. In fact, there has been no effective enhancement of the rent. According to Colebrooke, the gross value of harvests in 1793 in the Presidency of Bengal was Rs. 32,00,00,000. In 1912 Bihar was separated from Bengal, and in 1928-29 (the year before the beginning of the continuing general economic depression) the gross value of the agricultural produce was Rs. 243,80,65,500. In 1793, the proportion of rents to harvests was one-eighth according to Colebrooke, and in 1928-39, the proportion was one-fourteenth.[1] Those who pay higher rents in Bengal are lower grades of raiyats who have less privileges and make their payments to raiyats and not to private landlords, as understood in our country. At the time of the Permanent Settlement and in the pre-Settlement period the lower grade of raiyats (that is paikashts) used to pay lower rates. The position has been reversed by the Bengal Tenancy Act, and those who are really suffering under the weight of rents are creations of the higher grade of raiyats who, in fact, are responsible for "rack-renting," if there is any, in Bengal. The average rate of raiyati rent is Rs. 3 per acre, and the complaint, that the raiyati rental is high, "provokes a smile." Our Committee has already shown that there has not been any appreciable enhancement in the rate of raiyati rental since the Settlement of 1793, although there has been a great fall in the value of money (at least by one-third.)

Sufficient profit left to cultivators.

The assessments of the Sircars in the Ain-i-Akbari were based on the assumption that the Sovereign was entitled to one-fourth of the produce of the soil. Buchanan Hamilton, 1808, gives figures to prove not only that a rent of one-fourth of the produce left sufficient profit to the farmer but was necessary "as it may be safely said that a gradual and moderate use of rent is the grand source of wealth and prosperity to every country and as the additional exertion required from the

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[1]The general practice before the Settlement of 1793 was to take one-fourth to one-half of the gross produce. Grant said that the assessment was limited not to exceed a fourth part of the actual gross produce of the soil. Manu and other legislators in the Hindu period authorised the Sovereign to exact a sixth, an eighth, or a twelfth part of the grain according to circumstances. The Institutes of Akbar inform that former monarchs of Hindusthan exacted the sixth part of the produce of lands. Under Akbar the revenue was settled at one-fourth of the produce of lands cultivated for every harvest.

The Fifth Report put the State proportion at three-fifths in full-settled land, leaving the cultivator two-fifths. Mr. Shore was in favour of one-third. Mr. Elphinstone says that one-third is a moderate assessment and that the full share is one-half. Hence, the present pressure of rental, viewed in that light, is extremely low.

tenant always has turned out more for his benefit than for that of his landlord."[1] The rent of "poli" lands per bigha in 1800, as could be gathered from Buchanan Hamilton's account of Dinajpur, varied from Re. 1 to Rs. 3 (*vide* Survey and Settlement Report of Bogra and Pabna by D. Macpherson, page 44). Mr. Macpherson, I.C.S., the Settlement Officer, in his Report on Pabna and Bogra (published in 1930) accordingly remarked that "taking the rents of 130 years ago and calculating according to the provisions of section 32 of the Tenancy Act, the raiyats would frequently have had to pay, not 1 rupee per bigha, but Rs. 7-8, a rent they often levied from their under-raiyats." By making a comparison of rents of Pabna and Bogra, the Setlement Officer concluded as follows:—

"It will be seen that the increase on the rates has not been so very great; and has, certainly, not been in proportion to the rise in the price of foodstuffs; yet, where the increase has been greatest, i.e., in the eastern alluvion, there, owing to the variety of the crops and a fertile soil, the incidence of the rent is lowest.....The under-raiyats who have not the protection of occupancy rights do not escape so easily, and have to pay, to the full limit of competition rents of Rs. 10, Rs. 12 and Rs. 15 per bigha—rents which are not far from representing the value of a quarter of the gross produce, or the chouth on which the old pargana rates of rent were based.....The enhancement of rent being allowed on the ground of rise in the price of staple foodstuffs, the surplus from the cultivation of the commercial crops (such as jute, tobacco) is unaffected and the raiyat keeps the reward of his industry and enterprise."

What "actual cultivators" means.

(*iv*) The expression, "actual cultivators", is significant. In Bengal the majority of the actual cultivators are under-raiyats, agricultural labourers, bargadars, etc. They form the peasant population. The higher raiyats, if they happen to be non-cultivators, are raiyats by legal fiction. Amongst the higher raiyats, there are some who have sublet their holdings in entirety; there are others who have settled with bhagchasis and hired labourers; there are the rest who let out in part and cultivate some portion themselves or by their family labour. If overlordship over actual cultivators is exercised by any party, it is by the higher class of raiyats. They resemble Russian kulaks"[2]

[1]According to Buchanan Hamilton we find 1 bigha is nearly equal to ⅓ acre or 1⅓ Calcutta bighas. A farm of 55 bighas of land contained about 79½ Calcutta bighas or 26½ acres. The actual size of bigha varied—*vide* Appendix 8 of Buchanan Hamilton's account of Dinajpur.

[2]The first agrarian revolution in Russia in 1917-18 which saw to the liquidation of the landlord was the work of the peasants, principally of the kulaks. The second agrarian revolution which involved the liquidation of the kulaks was the work of the Bolshevik Government. At the end of 1933 the liquidation of the kulak was completed.

"who managed to enlarge their holdings by renting land, often adding with the farming, a little trading and a persistent moneylending; they developed their cultivation through the employment of low-paid wage labour."

Tenancy Act created a system of overlordship by higher raiyats over actual cultivators.

The Permanent Settlement was permeated with an admirable team-spirit: there was no question of overlordship over actual cultivators. It was decided that cultivators would hold on leases, and there were directions for better farming. The tenancy legislation handicapped the full play of the Permanent Settlement Regulations, and created a system of lordship over actual cultivators having less privileges by higher raiyats with greater rights. And it is an open truth that the "petite bourgeoisie" do not and cannot possess the liberal tradition, imagination and sympathy of the "grande bourgeoisie," and in history they have turned out as the worst oppressors.

Q. 12. The question is suggestive of the lack of seriousness with which the Permanent Settlement is approached. Even if the grounds suggested in question 11 were true, there was no case for the abolition of the Permanent Settlement. The Permanent Settlement has fashioned Bengal's rural economy, given shape to her social structure, and has added richness and variety to her culture. Its replacement is neither an easy task, nor should it be attempted for ills which could be remedied by legislations and other steps. "Growth is slow, when roots are deep." In Bengal, the roots are deep down in historical forces: the cumulative effects of legislation and custom have had effect on the psychology and habits of the people. The answers to questions 3, 5 and 10 have indicated the extent of the work and nobility of the mission of the Permanent Settlement.

The unmaking of the Settlement requires greater forces in history.

An economic system becomes ripe for supersession when it is found inefficient in exploiting the resources of production. If it is found that the Permanent Settlement cannot be made to serve its purpose, the case for its abolition becomes unanswerable. But the defects pointed out are mostly not the creations of the Permanent Settlement; they could easily be grappled by other ways. The Permanent Settlement is not an ordinary legislation: its making and unmaking require greater forces in history.

The interests of land to be made predominant in a land system.

Agriculture forms the main industry of the province. The Permanent Settlement was introduced primarily to extend cultivation and improve agriculture. In the business of agriculture, landlords and tenants are undoubtedly partners, but land, being the basis of production, is the most important factor. Question 11 seems to suggest that

if the concessions could be granted to raiyats, the object of the land system would be achieved, and that, as the Permanent Settlement has failed to achieve it, there is a *prima facie* case for its replacement. It indicates a short-sighted view in the matter of evaluating a land system. Land is the principal thing, and its interests should be made predominant. Land requires landlords; land requires tillers. If the interests of land suffer from an agency, the case for limitation of the powers of that agency gathers force. Land shall be nursed in the best way: land should not be allowed to exhaust in any manner. If the interests demand the curtailment or expansion of the powers of any of the partners, landlord or raiyat, that is to be accepted in the interest of agriculture (that is, in the collective interest of the nation.) We shall show later on how the Tenancy Act has neglected the interests of land. That is beside the issue at present. Our Committee is content with remarking here that the modification or alteration of the Permanent Settlement can become a live issue if it can be shown that the interests of land are deteriorating thereunder, and that there is no other way out of it. The struggle between landlords and raiyats for power is one thing; the improvement of agriculture is another. Our Committee holds that the land system devised by the Permanent Settlement was most efficient for the improvement of agriculture; if its efficiency is lost, it can be restored by well planned legislations. Hence, the question of abolition of the Permanent Settlement does not arise, far less does it arise on the specific grounds suggested in question 11. Our Committee notes that no ground has been put forward to the effect that the Permanent Settlement was inadequate to make for extended tillage, better agriculture, and brighter countryside. The tragedy is that in the wrangle for the shifting of powers from landlords to raiyats, the interests of land are not thrown in the forefront. Accordingly, we are confronted with "political" grounds, not "economic" grounds, for bolstering up a case for the abolition of the Permanent Settlement.

The charges made do not establish the case for abolition of the Settlement.

Our Committee, however, contends that on the specific grounds in question 11 there can be no case for the abolition of the Permanent Settlement, because, firstly, the charges made do not stand the test of close analysis, secondly, even if they were true, they do not warrant a revolutionary measure, such as the abolition of the Permanent Settlement, especially when those defects could be remedied within the existing framework. It has not even been suggested that as an economic measure it has outlived its usefulness, although our Committee maintains that it has still useful role to play, if it is allowed to function unhampered by bad legislations and aided by good feelings on the

part of both the partners. If these factors are absent, no land system, whether it be based on the Permanent Settlement or any other, can possibly function to the advantage of the nation.

Q. 13. We have shown that the financial loss to the State because of the Permanent Settlement is superficial. The raiyati rental which is estimated at Rs. 12 crores includes also the rental of temporarily settled estates and khas mahal estates. The expression, "raiyati assets," is confusing.

Land Revenue from the permanently settled estates is Rs. 215 lakhs and odd; the revenues from the temporarily settled estates[1] and khas mahal estates push the figure beyond the sum of Rs. 3 crores.

Losses of the State from the Permanent Settlement superficial.

We have noted that the collection charges may be taken at 15 per cent. Even with that expense, the arrears of collection (nearly 30 to 40 per cent) are being carried from year to year. Out of this income, landlords pay their public works and road cesses and, in certain districts, education cess. Even if there are arrears in the quota of cesses to be paid by raiyats, they are made up by landlords. After subtracting all these expenses and noting that the balance is spread over a large number of landlords in Bengal, it is a fanciful idea to dwell on the riches of landlords and the losses of the State. If there were no private landlords and all khas mahal areas, the collection charges will have to be borne by Government; there will be a fall in the amount of cesses and union rates; there will also be a distinct fall in the income under the provincial head, "Stamps", which forms a main source of provincial revenue. Judicial statistics in Bengal show that 60 per cent. of suits in Bengal are rent suits; there are many money suits and title suits because of the prevalence of the landlord-tenant system. The provincial revenue under Stamps is generally more than Rs. 3 crores out of the entire provincial revenue of Rs. 12 crores.

Indirect losses to the State.

Apart from these direct losses, indirect losses will be considerable. A large section of the people, being deprived of the income from land, will have their purchasing power depreciated, and naturally there will be a fall in the national dividend. Private landlords, even in their distress, continue many recurring grants for charitable and beneficent

[1]The land revenue from certain Sunderban lots which belong to the temporarily settled estates has been considerably enhanced at re-settlements. In reply to a question the Hon'ble Sir P. C. Mitter, Revenue Member, placed certain figures of enhancement in the Bengal Legislative Council on the 16th March 1933. The enhancement of 200 to 500 per cent., it is found, has been usual, although "a moderate increase" was only contemplated.

works: this sum which is not inconsiderable will be withdrawn. The Report on the working of the Wards, Attached and Trust Estates in Bengal in 1931-32 reveals that the total sum spent during the year on schools, dispensaries and works of improvement by the Wards estates amounted to Rs. 5,00,412. Critics who harp on the "theory of loss" have no idea that a very big amount will be taken away which is at present being pooled for the improvement of the country.

Principles of Public Finance to be followed.

A statistical table of the losses, direct and indirect, due to the disappearance of private landlords from Bengal, cannot possibly be constructed except by the active co-operation of Government. We are only indicating very roughly some of the sources of "loss" which shall have to be taken into consideration in appreciating the "loss" flowing from the Permanent Settlement. The "losses," our Committee submits, cannot so easily be ascertained: they can hardly be gauged by putting land revenue on the one side and the raiyati rental on the other side. The national dividend does not admit of so rough and ready a calculation; the Permanent Settlement was not so superficial a measure. The financial losses apart, the psychology, habits and characteristics of the nation will have to undergo complete transformation. Our Committee is, therefore, really surprised at the facile and easy calculation of the losses, made in the question under discussion. Government does not exist to get the highest amount of revenue: even if they desire it, it is a very contracted view of public finance to realise the highest amount under a single source by drying all other elastic sources which add to the riches of the country. Public Finance is not governed by the principles of family budget where invisible returns do not find any room, nor are all the sources of income inter-connected.

Human society, an organic whole, not to be disturbed.

From the foregoing observations it will be found that the loss of revenue can hardly be removed by the abolition of the zamindari system. This abolition should not be contemplated in a light hearted manner. It is accepted that "in changing the modes of production, mankind changes all its social relations." The economic life is ultimately bound up with the whole ethical and social life.[1] "Human Society is an organic whole, the parts of which are naturally interdependent in such a way that each part in fulfilling its distinctive

[1]"Human life depends upon the relation between the individual and his environment. The economic interpretation of history, in its proper formulation, does not exhaust the possibilities of life and progress; it does not explain all the niceties of human development; but it emphasises the forces which have hitherto been so largely instrumental in the rise and fall, in the prosperity and decadence, in the glory and failure, in the weal and woes of nations and peoples. It is a relative, rather than an absolute explanation."—Prof. Seligmen's "Economic Interpretation of History", pp. 157-58.

function, conditions the fulfilment of function by the rest, and is in turn conditioned by the fulfilment of its function by the rest. In this sense the whole is present in each part, while each part is indispensable to the whole. Every society consists of groups working for the fulfilment of the wants of the society."[1]

The "organic unity, ordered complexity, and harmonised multiplicity" in society should not be disturbed without grave necessity. The landlord-tenant system is undoubtedly weakening. If it goes, it will go because the position of the present landlord has been made economically weak by various legislations and impositions. Messrs. C. S. Orwin and W. R. Peel[2] when they advocated land nationalisation definitely stated: "Let it be stated over and again that no advantage, on balance, is claimed for this system of land purchase (by the State) when contrasted with the system of private ownership which has prevailed so long; it is only put forward to provide an orderly way out of the difficulties which the breakdown of the old system is creating."

Zamindari system not to be abolished.

Our Committee is, therefore, not in favour of the abolition of the zamindari system, but at the same time the "untenable" position to which landlords have been reduced by imperfect legislations should be remedied so that the system may proceed on smoothly. If it is felt by the State that the difficulties created cannot be removed and that a revolutionary change in the habits of people and the mode of production is helpful under new conditions obtaining in the present hour of crisis, it is then only that the need for the abolition of the zamindari system with compensation comes to the arena of practical politics.

Temporary settlement is no substitute for Permanent Settlement.

Our Committee does not believe that the zamindari system has created difficulties which cannot be surmounted except by the process of its abolition. In the circumstances, there will not be any visible

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[1]Sir S. Radhakrishnan strengthens his case in the "Hindu View of Life" by observing: "Each man is said to have his own specific nature fitting him for his own specific function, and changes of function are not encouraged. A sudden change of function where the nature is against its proper fulfilment may simply destroy the individuality of the being. We may wish to change or modify our particular mode of being but we have not the power to effect it. Nature cannot be hurried by our desires" (p. 111).

[2]Vide "The Tenure of Agricultural Land", Cambridge University Press, 1926. Prof. Taussig in his "Principles of Economics" states practically the same thing: "All things considered, administrative difficulties and the imperfections of Government, as well as strictly economic factors, the balance of gain is probably in favour of the untrammelled right of private ownership in agricultural land, and of such legislative changes only as facilitate its free transfer and its easy acquisition by those who will use it best." The spur of ownership was historically indispensable for the advance of agriculture.

improvement in the situation, if it is substituted for by one of temporary settlement. That will be only modifying the existing zamindari system without minimising, rather adding to, the difficulties inherent in the present situation. Government may, in a system of temporary settlement, enhance land revenue at every revisional period, but the stability of the whole system will be shaken. All the permanent leases will be made temporary; the enhancement of revenue will naturally lead to enhancement of rent; the spur of ownership will be absent; a state of insecurity will prevail. The losses involved will not, therefore, be commensurate with the gain contemplated in enhanced land revenue.[1] If the breakdown of the landlord-tenant system, under a scheme of temporary settlement, can be averted by scientific legislations and other governmental efforts it should rather be attempted within the given framework of the Permanent Settlement, and the fancied loss of land revenue can easily be recouped by indirect returns. "In raising a revenue to answer the public exigencies, we ought to be careful to interfere as little as possible in those sources from which the wealth of the subject is derived."

Various factors should be considered in imposing agricultural income-tax.

The tax on agricultural income should not be considered separately. The pressure of revenue and rent on landlords shall have to be found out; the cesses, and other rates shall have to be weighed; the costly method of realising arrear rents and cesses shall have to be taken into consideration; the amount of unrealised and unrealisable arrears shall be taken note of. Then the question of income-tax on agricultural incomes should be judged by the principles of taxation. In Bengal there is another aspect which cannot be neglected: that is, if direct agricultural income-tax on agricultural incomes should, in all fairness, be imposed on permanently settled estates. It is an "idle war of words," as Baden-Powell put it, to discuss at this stage if land revenue is a rent or tax; land revenue was taken by all distinguished authorities as a tax.[2]

The Permanent Settlement Regulation I of 1793 is very definite on the question of the limitation of public demand upon the land which is supported by the following expressions:—

Jama fixed in perpetuity.

"The limitation of public demand upon the land" (section 1); "the jama assessed upon their lands under the Regulations would be continued after the expiration of ten years and remain unalterable for ever"

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[1]"A moderate jama, regularly collected, unites the Company's interest with the happiness of the natives more effectually than any forced imperfect system of an exaggerated jama"—Mr. Shore's Minute of June, 1789.

[2]Lord Cornwallis, Shore and others treated land revenue as a tax and it formed the staple source of revenue. The Taxation Enquiry Committee (1924-25) has looked upon land revenue as a tax for all practical purposes.

(section II, Art. I); "to declare the jama which has been or may be assessed upon their lands under the Regulations above mentioned, fixed for ever" (section III, Art. 11); "at the expiration of the term of the Settlement no alteration will be made in the assessment, which they have respectively engaged to pay but that they and their heirs and lawful successors will be allowed to hold their estates at such assessment for ever" (section IV, Art. III); "they and their heirs and lawful successors shall be allowed to hold their respective estates at such assessment for ever" (section V, Art. IV); "such individuals and their heirs and lawful successors shall be permitted to hold the lands at the assessment at which they may be transferred for ever" (section VI, Art. V); "from the earliest times the public assessment upon the lands has never been fixed," and "the zamindars, independent talukdars or other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrecoverable and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country" (section VI, Art. VI); "from the limitation of the public demand upon the lands the net income and consequently the value (independently of any increase of rent obtainable by improvement) of any landed property.....will always be ascertained by a comparison of the amount of the fixed jama assessed upon it" (section X, Art. IX).

In the face of these commitments, the imposition of income-tax on agricultural income can naturally be interpreted as a move towards confiscation[1]. Lord Cornwallis pointed out that the improvement of agricultural world gives rise to returns from other sources. "By reserving the collection of the internal duties on commerce Government may at all times appropriate to itself a share of the accumulating wealth of its subjects, without their being sensible of it. The burden will also be more equally distributed; at present, the whole weight rests upon the landlords and cultivators of the soil" (*vide* Cornwallis' Minute, 3rd February, 1790).

Peculiarities of agricultural income.

Secondly, whether the margins left to landlords do permit further taxation. There are 1 lakh of revenue paying estates, 31,000 revenue

[1]"New taxes, under any pretence whatever, were prohibited." Fifth Report, 1812. Judges Tucker, Barlow and Hawking judicially declared; "It is a narrow and contracted view to suppose that the Permanent Settlement consists in nothing more than the obligation on the part of the zamindar to pay a certain amount of revenue annually to the Government. The settlement is a compact by which the zamindar engages on his part to pay a fixed amount of revenue to the State; and the State on its part guarantees to the zamindar by means of its judicial and fiscal administration the integrity of the assets from which the revenue is derived and which in fact constitute the Government's own security for the realisation of its revenue." The "integrity of the assets" is affected by making any new demand on the income from land.

free estates, 18,000 rent free estates and 2 million tenures, and many zamindaris are encumbered with co-sharers. If the limit of taxation is recognised, many of the landlords will then be found to have no sufficient margin to be taxed. This point of view should not be neglected in any scheme of further taxation. In this matter, the equality of taxation on all interests should be borne in mind. Non-agricultural incomes pay income-tax; agricultural income pays revenue or rent and cesses. The incidence of charges on agricultural income is high, considering the fact that it pays its quota in rent and cess irrespective of the fact whether the income is accrued or not. Non-agricultural income, when accrued, pays income-tax. In calculating the incidence this difference should not be neglected. Moreover the incidence, as shown, often looks comparatively small as the collection charges are not taken into account in computing the effective income from land.

The charges on land income are land revenue or rent and cesses. The charges on non-agricultural incomes are income-tax, and super-tax thereunder. The incidence of land revenue and cesses on land income in Bengal would range between 25 per cent. to 40 per cent., that is 4 annas to 6 annas in the rupee. This incidence will vary from district to district. The following deterrent factors should also be noted: (1) the charge on land income has no reference to actual cash receipts or realisations, and is at a flat rate on every landlord's income; (2) the task of collection of cesses (including the education cess) falls on landlords who have to bear the collection charges and also the losses consequent on non-realisations. In the case of incomes of persons other than landowners, the rate scales up from 6 pies to 26 pies and a surcharge of 1/12 plus super-tax beyond Rs. 30,000. The following illustrations[1] will make out the disparity:—

(1) Income Rs. 8,000; landholder pays Rs. 2,000 to Rs. 3,200. Income Rs. 8,000; others pay, say, Rs. 400.

(2) Income Rs. 20,000; landholder pays Rs. 5,000 to Rs. 8,000. Income Rs. 20,000; others pay, say, Rs. 2,200.

(3) Income Rs. 1,00,000; landholder pays Rs. 25,000 to Rs. 40,000. Income Rs. 1,00,000; others pay, say, Rs. 20,000.

Land income subjected to greater charge.

"It is clear that in the cases of smaller incomes the disparity between the two impositions is indeed very large, but as the incomes move upwards, the disparity is narrowed down until in the cases of incomes over a lakh, the income-tax payable and the land revenue and cesses payable are close to each other. Taking the cases of incomes below one lakh, it can therefore be safely held that land income is

[1]Taken from Prof. B. N. Das Gupta's "A Treatise on Indian Income-tax Law and Accounts", page 22, published in 1938.

subjected to much greater charge by way of land revenue and cess than the charge upon other incomes by way of income-tax and super-tax."

Income-tax on agricultural incomes confiscatory and unjust.

Our Committee therefore holds, that the imposition of income-tax on agricultural income will (1) affect the integrity of the assets of the Permanent Settlement, (2) burden the land income with discriminating and excessive charges, and (3) deteriorate the indirect sources of revenue by making land tax inordinately heavy. On the other hand, the burden on land income is recommended by all economists to be moderate, so that agricultural prosperity may set in. The landlord-tenant system in Bengal, rendered economically weak, cannot bear the strain of further taxation. That would be discriminating, confiscatory and unjust.

Permanent Settlement to be preserved in letter and in spirit.

Q. 14. Our Committee does not favour the abolition of the zamindari system. We have shown that the Permanent Settlement as an economic measure has done immense service to the country. It has excellent provisions which could not be fully taken advantage of because of the unscientific tenancy legislations. We are definitely of opinion that the Permanent Settlement should not be modified, but that the land system based thereon cannot function to the benefit of the nation if it is preserved only in its outer form, the inner essentials being defeated by other measures. We, therefore, urge on the Commission that the Permanent Settlement should not only remain in form but also be allowed to function smoothly and usefully. The part set out by the Regulations of 1793 for landlords should be played without serious obstacles being put in the way; raiyats should discharge their allotted functions and enjoy all the privileges granted under the shelter of the Permanent Settlement; the revenue system, as envisaged, will be worked in a way as to make the most advantageous use of the resources of production. In this way, the Permanent Settlement of 1793 should be allowed to play its useful role without disadvantage to any of the partners in the business of agriculture, but with full awareness of the needs of agriculture. Our Committee has always taken this view of things and desires to make its position clear by restating it here.

Effective safeguards to be provided for.

Our Committee finds that there is an insistent movement against the Permanent Settlement. Government is making inroads on the Settlement, making the position of landlords delicate and untenable. Government and the people seem to be determined to make an assault on the fundamentals of the Permanent Settlement without disturbing the outer framework. That is all to the prejudice of landlords, and the situation looks desperate for us. Our Committee is in favour of preserving the Settlement of 1793, so that it may, or may be allowed to,

function. The impediments to its working should, therefore, be removed. In the circumstances, it is essential that there should be statutory protection extended to safeguard the Permanent Settlement and to nullify reckless legislative efforts for impairing the given basis of land-system. The kind of protection, sought to be extended by the existing Instruments of Instructions to the Governor and Governor-General with regard to the Permanent Settlement, is indeed illusory. The safeguards must be real and effective and should be provided for in the Constitution itself. Our Committee, therefore, urges on the Commission to take this view of the matter into serious consideration and to recommend real safeguards, if it considers the maintenance and functioning of the Permanent Settlement essential for the interest of the country. With these observations, our Committee returns to answer the question under discussion.

"Confiscation is the evolution of ill-will"—Prof. Laski.

Our Committee believes that property is the return made to the individual for effort. The institution of private property in land is a question of expediency in history, not morals. Through historical forces and social necessities private property in land has grown; it has received the protection of the State. If in the evolution of historical process, a stage is reached when property in land shall have to be abandoned in the interest of the country, an eventuality which should not be considered in any light-hearted manner, our Committee is definitely of opinion that none shall be deprived of his lawful property without compensation. We do not advocate the abolition of the zamindari system; we want the forging of factors helpful for the functioning of the system. Should the existing Government, however, be seized with any ideology of riding the country of private property or creating impediments to the functioning of the zamindari system, our Committee will then advocate the abolition of the institution of landlordism with fair compensation.[1] Confiscation, we admit, makes "a dramatic appeal to those who are impatient of the system." They do not pretend to recognise that property has been the basis of our civilisation; nor do they appreciate the fact that "the progressive societies are *built* upon the regime of private property." Confiscation is not a remedy for peaceful times, it was possible in revolutionary Russia. According to Prof. Laski,[2] the result of so drastic a step as confiscation is the

[1]The Government of India Act, 1935, be it noted, is not in favour of expropriation of property in land without compensation. *Vide* section 299 of the Act.

[2]"Extinction of rights by the payment of compensation seems to leave in full vigour a class of functionless owners. That is true; and in strict logic it is unjustifiable. But the life of a community must be adjusted to its experience and not to strict logic. The sudden extinction of these legal rights would, if unaccompanied by compensation, probably result in an assault upon the government making the attempt. Men will sooner, as Machiavelli said, forgive the death of their relatives than the confiscation of their property. Nothing is so likely to poison the spirit of the body politic than the sudden disappointment of financial expectation"—Prof. Laski's "Grammar of Politics", p. 209.

evolution of ill will. That ill will should be avoided, and "it is always wise for statesmen to avoid the disappointment of established expectations so long as they can be abridged to reasonable dimensions. The community may pay a higher price in money; but the gain in the good will that accrues is always more than compensation for that price." Mr. Mill, who was very radical in his thinking, also agrees that landlords have indefeasible claim to compensation. "It is due to landowners, and to owners of any property whatever, recognised as such by the State, that they should not be dispossessed of it without receiving its full pecuniary value, or an annual income equal to what they derived from it." Moreover, landlordism was accepted in Bengal because it was rooted in the traditions of the country; it is enjoying the protection of the State for so long a period.

Property rights are the child of law. Now, the question whether land ought to have been allowed to come into private hand, is meaningless. In fact, land has come to private hands, and "the present owners have brought or inherited them in exactly the same way as other people have bought or inherited other sorts of property." To appropriate them without compensation has no justification, and no Government can launch on any plan of confiscation in normal times. According to Prof. Pigou the argument for compensation derives its main force from the circumstances that land is a marketable commodity.

Purchase of zamindaris after fair compensation.

Compensation brings about gradual transformation; it takes note of the laws and conditions of reality. The misguided idealist is exasperated by the slow progress, and advocates confiscation as short cut to the millennium. He forgets that ideals have to be realised "through the common clay of human nature," and that by "protesting against the checks and controls he leaves society open to the assaults of anarchy." Our Committee, therefore, strongly argues in favour of compensation in the case of the extinguishment of the rights of landowners.

Difficulties of valuation.

Compensation is to be fair, and that offers certain difficulties: true valuation of the landed property is practically an impossible task. The market value is not the final indication: it is dependent on many seasonal factors. Land generally has two values, one a definite, ascertainable, agricultural value; the other an indefinite, speculative value. The second is compounded of "monopoly value, amenity value, prestige value and potential site value." Equity asserts that "similar persons should be treated similarly." But land always carries special value due to sentiment and other factors which cannot be valued and reckoned in compensation money. Accordingly, Prof. Pigou in his "Public

Finance" remarks: "We must content ourselves with such rough justice as is afforded by the payment of something, say 10 per cent. in excess of market value as compensation for disturbance."

Principles advocated in Land Acquisition Act may be followed.

Our Committee suggests that the principles advocated in the Indian Land Acquisition Act in the matter of valuation may be adopted. The agricultural value of land should be taken note of. Three commissioners, of which one shall be a person of legal knowledge and judicial experience, the second representing the landlord's interest and the third on behalf of tenants, may be appointed in every district to settle the compensation money. This plan was advocated by the Liberal Party of England in its report of the Land Committee, 1923-25 (p. 336). There can be no common standard for the calculation of the value of land. The values will differ according to districts, even according to estates. Lands in different parts of Bengal may yield different kinds of value, and compensation money is bound to vary in all cases. Moreover, the principle of statutory compensation, say 15 per cent. more than the purchase money by way of compensation for enforced disturbance of rights, should be accepted as advocated by Prof. Pigou and others and followed in the Indian Land Acquisition Act. All this cannot be neglected in determining a fair purchase money of the zamindaris. Our Committee strongly advocates that strict valuation should be made by taking all the relevant factors into consideration.

Different schemes of payment to landlords.

It is contended by economists that landlords should be paid out by annuity, because "the urgent need of agriculture is a sufficiency of capital; the capital improvement of its lands is the soundest investment the State can make, and the State's credit resources should, therefore, be used to assist the cultivator rather than to pay a lump sum for the purchase of the freehold." In England there are various schemes pushed by the different political parties. The Liberal Party is in favour of compensating landlords by an annuity which will be perpetual, but the State may make such arrangements as are equitable by sinking fund, drawings, or other means, to redeem the annuities in any way, equitable to all parties. The Labour Party is in favour of giving Land Bonds to the owner which would be redeemable by a sinking fund provided from the economic rent of the land. The official Conservative Party does not contemplate public ownership beyond the extension of small holdings. The small holdings movement is this: County Councils purchase lands and settle tenants on holdings, divided into economic units. In Scotland, compensation claims are determined by the Land Court. Messrs. Orwin and Peel who are distinguished authorities in England advocated that the National Land Stock would be issued to the landlord to the value of the property passing. The

stock will bear interest at a rate comparable with the yield of other long-dated British Government Stock at the time of issue. The stock will be redeemable through the creation of a sinking fund.

On a survey of the various schemes it becomes clear that the transference of land from private landlords may be effected in the following way:—

(1) A policy of purchase, as is found in the small holdings movement in England and Scotland, by the County Council. This is a very cautious and gradual policy of municipalisation of agricultural land.

(2) A policy of purchase by the State by issuing Land Bonds bearing fair interest with option of redemption through the creation of a sinking fund provided from the economic rent of the land.

(3) The initiation of a policy of accepting land in satisfaction of public dues payable by landlords. In England the Marquess of Lothian and the Duke of Montrose broached the proposal of paying death duties by surrendering a portion of the estate. We are told that this received substantial support in the Conservative circles.[1]

In case of Land Stock, it will carry 5 per cent. as interest on principal.

Our Committee has no desire to be dogmatic on any particular scheme: its chief concern is that the compensation shall be real and fair; that the land stock, whatever it is, should bear a rate of interest not less than 5 per cent.; and that it should be free from any kind of encumbrance and tax. Whether a particular measure will be good for the country or not, that depends on the technique of administration contemplated. "Nationalisation is not an end, but a means to an end, and when the question of ownership has been settled, the question of administration remains for solution."[2]

Expenses to be involved in State purchase of zamindaris.

The total sum required will undoubtedly be large, but the policy of purchase, if adopted, is bound to be gradual. The raiyati rent is estimated to be Rs. 12 crores; the compensation money may roughly be taken at Rs. 240 crores on the basis of twenty times the rental. The annual interest at 5 per cent. will be Rs. 12 crores; if another 6 crores be paid by way of 2½ per cent. as sinking fund, it will take 40 years to redeem the Land Bond. If sinking fund be at 1½ per cent., it will take nearly 66 years. In fact, the calculation is

[1]In fact the Finance Act of 1909 in England provided that the Inland Revenue Commissioners might accept land in lieu of death duties, but a Treasury Minute later ruled that land should only be accepted if it could be utilised for some public purpose, which in practice has nullified this provision. *Vide* "The Planning of Agriculture" by Viscount Astor and Keith A. H. Murray, published by Oxford University Press, 1933, p. 101.

[2]Vide R. H. Tawney's "The Acquisitive Society."

not so easy. If the sinking fund that is created for amortisation is handed over to the landlord concerned, the interest will fall off annually to the extent the principal is paid off. Even if the sinking fund which will be annually created be kept separately and handed over to the landlord after a definite period, it will earn its own interest so long as it does not travel to the hands of private landlords. In this way, it will be found that every year the quantum of payment will decrease if the percentage of payment is maintained. If the amount of payment in the first year is continued, the period of 40 years contemplated will be considerably reduced. Moreover, all the districts should not be taken up at a time. Accordingly our Committee thinks that, given will and energy, the State can within a brief space of 25 to 50 years (the period depending on the extent and manner of payment) nationalise the entire province. Whether the nationalisation of lands is called for, or it will be all to the good of the country,—all these questions deserve separate treatment.

It would be better if an "estate" is purchased, and not an individual holding. It was the experience of Ireland that the sales of individual holdings, with the Land Commission acting as intermediary between the parties, were generally costly, slow and unsuitable to a huge purchase operation. Under Wyndham Act the landlord was obliged to sell an "estate."

Peasant proprietorship or State landlordism.

The raiyati rental in Bengal is very low (Rs. 3 in permanently settled estates), and it can be enhanced[1] to Rs. 4-8 without making the pressure of rental heavy. That may mean lesser sub-lettings, consolidation of holdings and other economic measures. If the raiyati rental is enhanced, the policy of nationalisation resulting in peasant proprietorship may be completed within a very reasonable period. If the State proposes to act as landlord, it can do so and get back the money invested by pushing the rental to a very limited extent and by adopting other scientific measures. Whether there will be State landlordism or peasant proprietorship, is a matter of policy.

Policy of purchase to be pushed gradually.

Even this entire huge sum of Rs. 6 crores, earmarked for the sinking fund, will not be required at the initial stage; the rate of

[1]It is generally accepted by the authorities on land economics that the burden involved in the task of nationalisation should ultimately come from the economic rent of raiyats. The nationalisation of lands would throw greater responsibilities on Government and would involve a draw on the State's resources for the improvement of agriculture. Unless the extra burden is met out of the enhanced rental, the resources of Government will be inadequate to meet the growing necessities of raiyats, and if Government fails there it will have devastating effects on the country.

interest will be met out of the existing raiyati rental. In Ireland the policy of purchasing landlords' rights was initiated in 1871, and it continued up to 1922, when it is claimed that she has been converted into a country of peasant proprietors. In England the Small Holdings Act was passed in 1908 and only 13,122 small holdings were established within a period of ten years (that is upto 1918). It is always a wise policy to take recourse to gradual transformation: the transference of agricultural land from the control of private persons into the hands of the State, country, or cultivators, should not be sudden, as the nation should be given time to adjust itself to the new mode of production. If a scheme spread over 50 or 60 years is planned. the extinguishment of the landlords' rights can peacefully be brought about. Our Committee is not at this stage offering a complete scheme of nationalisation: it is only giving an outline wherewith the details can be worked out, if the policy of purchase is accepted by the State. We are sure that the need for detailed statistical calculation will then arise.

Q. 15. We urge, and beg to repeat it here, that our Committee is definitely in favour of preserving the Permanent Settlement and of introducing suitable measures so that the system, based on the Regulations of 1793, may usefully and smoothly function. We have, however, indicated roughly the outline of our scheme of nationalisation if compensation is paid in bonds carrying interest. We have also shown how through the creation of a sinking fund, land can clearly become the property of the State or peasants, whichever is pursued. The period of redemption will depend on the percentage earmarked for the amortisation fund. Whether the sinking fund will be created or not, is also a matter of policy for the State. The rate of interest should be 5 per cent. exclusive of the sinking fund.

Principles of the Wyndham Act regarding cash bonus may be followed.

Even if the compensation be paid in bonds, our Committee desires to impress that at the initial stage one-fourth or one-sixth of the purchase money should be paid in cash, since "the estates burdened with encumbrances could be redeemed only in cash." The Wyndham Act of 1903 in Ireland introduced the principle of cash bonus. Wyndham desired that the cash bonus should be graduated inversely with the purchase price, that is 15 per cent. on an estate worth £5,000, 10 per cent. on one worth £20,000, and 5 per cent. on one worth £40,000, etc. This scheme of graduation was opposed, and the bonus was changed to one of 12 per cent. upon the sale price. In Ireland where the landlord made an agreement of sale with his tenants, subject to the limitation of the Act, the transaction was

known direct sale. The Act also provided for indirect sale, whereby the Estates Commissioners purchased an estate from the landlord and resold to the tenants. In either case, the Commissioners were empowered to rid the estate of uneconomic holdings, by adding to the existing holdings untenanted strips of land, or by interchanging strips of land so as to consolidate the occupier's farm land. The principles of cash bonus and other procedure of sale adopted in the Wyndham Act may be profitably followed.

Q. 16. We have indicated already that the abolition of the zamindari system will involve a revolution in the social life of the people. In rural Bengal there are gradations of people, and their interests are more or less inter-connected, so much so that in religious festivities and social ceremonies every section of the community has its proper place. The joint family system, the concept of social life, the interdependence among all classes which prevents the disintegration of society through class conflict—all this has derived vigour and nourishment from the existing land system.

Collapse of rural society from the disappearance of landlord.

In India, especially in Bengal, the absence of various avenues of employment has naturally transferred the attention of the people to land. A landlord has around him a large body of dependants; they render some sort of service and look up to his patronage. He has a large staff to maintain; he feels it an obligation to help the dependants of his raiyats in some way or other. Everybody and everything will be thrown out of gear. "As regards rural society generally, the disapperance of the landowner deprives it of its natural focus. With the dispersal of his property nothing remains to tie the squire to the locality in which he has exercised for so long, in greater or less degree, functions of leadership and wise control. Many people do not realise the extent of the collapse in rural society, which is the first result of their abandonment, bringing discomfort and even misery to many of their more humble neighbours. Indeed, there are some who think that it is not for the good of rural society that the landlord element should be eliminated from it by the uncontrolled operation of economic pressure. The greatest single cause of social unrest is the disintegration of classes. Where everything is understood everything is forgiven, and people can only understand each other when they have opportunities of mixing freely one with another. On the estate and the farm, at work and at play, all classes on the land are in almost daily contact."[1]

[1]Vide Messrs. Orwin and Peel's "The Tenure of Agricultural Land."

Hindu view of society will be sacrificed.

The rural society in Bengal is a mould into which "many different potters have poured their clay."[1] The upper classes and the middle classes will, in the event of the abolition of the zamindari system, be withdrawn from land; there will be disintegration of the existing social classes; raiyats will be disciplined into a separate and independent economic interest. The law of social life will then be cold and cruel competition. Society will be a theatre of conflict, as the work of readjustment will be sacrificed to building a "brighter future" on the quicksands of class antagonism. There is such a thing as social environment; there is such a thing as fidelity to the past; all this will be ruthlessly rooted out in the scheme of the abolition of the zamindari system—a system which is not created by any legislation but has grown out of the soil of the country. According to the Hindu view of life,[2] each clan is centred in itself but works alongside another in co-operation. This mutuality, this synthesis is abandoned if landlords are made to go out of rural Bengal. The spirit of accommodation, which is the historical characteristic of the Hindu society, will then be extinct.

It will be a grave social disaster when the institutions maintained by the recurring grants of distinguished houses will collapse. Those welfare institutions—schools, libraries, dispensaries and others which are now maintained by landlords and will be extinct along with the abolition of the zamindari system—are the assets of the country. There are also religious endowments; we have not discussed how will they be dealt with, because our Committee is definitely of opinion that they should not be touched by the State in its eagerness to have more revenues. The rural society in its varied aspects has a dependance on landlords, and the collapse that the disappearance of the landlord element in society will involve, will be considerable and far-reaching in its effects.

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[1]Bengal has received from time to time accessions of new blood and fresh traditions, contributing not a little to the variability and catholicity of culture. The prevalence of Buddhism encouraged such inter-mixture. The cults of Sahajiya, Aul and Baul, the liberal anti-caste outlook of Vaishnavism, the appeal of the Tantric discipline, the ideal of man-God in many popular cults, the folk literature influenced by the liberal traditions of religion—all testify to the wide-minded culture of the masses of Bengal.

[2]"Hinduism repudiates the belief resulting from a dualistic attitude that the plants in my garden are of God, while those in my neighbour's are weeds planted by the Devi which we should destroy at any cost. The cure for error is not the stake or the cudget, not force or persecution, but the quiet diffusion of light. The interests of humanity require that every type should be assisted and educated to its adequate expression and development. Every historical group is unique and specific and has an ultimate value, and the highest morality requires that we should respect its individuality."—Prof. S. Radhakrishnan.

Term "landlord" includes all classes of tenureholders.

Q. 17. Our Committee desires to make its position clear. When we have talked of the abolition of the zamindari system or of the nationalisation of land, we have always included all the grades of tenureholders within the category of zamindars, as forming the landowning community. The technical meaning of the zamindar as paying "revenue" and not "rent," without including tenureholders in its fold, is not taken simply because of the fact that the community of landlords in Bengal cannot be understood without reference to tenureholders. We further feel that if the case for the abolition of the zamindari system has arisen, it is applicable to both "zamindars" and "tenureholders." If zamindars go out and tenureholders remain, the position practically remains the same, with this little difference that one grade of landlords is reduced. For all this, no State becomes ready to pay compensation, nor does the cry for the nationalisation of lands get any logical interpretation. However, our Committee thinks that zamindars and tenureholders are tied by the same bond, and in any scheme of reforming the land system, they should not be dealt with separately.[1]

All grades of landlords to get compensation.

We beg to repeat again that we are in favour of preserving the Permanent Settlement, and that legislations should be so devised as to help the functioning of the land system. But if the abolition of the zamindari system, or nationalisation as it is commonly put, is considered very essential by the State, our Committee holds that all grades of landlords should be given a fair compensation. The outline of the scheme of nationalisation, that we have given in the previous answers, is based on the presumption that in any such scheme interests upto the first grade of raiyats will be purchased.

The anticipated effects of the proposed change in the land tenure system on agriculture.

We have also indicated what radical changes will be brought about by the revolutionary scheme of nationalisation. But whether the nationalisation of land will lead to advantage or not will undoubtedly depend on the nature of agricultural policy that will be pursued by the State. Nationalisation means public ownership. If

[1]There are authorities who think that the abolition of tenureholders with compensation may facilitate the growth of a simple landlord-tenant system (that is, zamindar and raiyat) which may function better and more advantageously if a simplified, scientific legislation is given to the country. But no student of land economics has ever suggested that zamindars alone, excepting the tenureholders should be paid off, because that will be keeping the landlord system *in toto*, with the superior grade being out of the picture. In estates where there are no tenure holders, that is altogether a different matter.

private landlords are extinguished, the question remains—who will own land, the State or peasant? Even if the question of ownership is settled, it does not necessarily promise better farming, better agriculture. We have already remarked that in the business of agriculture, the interests of land should be predominant. Whether the State will follow a forward agricultural policy in the matter of tenancy legislation, that is a matter to be watched. If nationalisation is advocated merely with a view to decrease the profit rates of property owners, and to provide the State with augmented land revenue for facilitating its operations, it does not ensure that better agriculture will follow therefrom. To achieve that something more than nationalisation is necesesary, and that requires administering and nursing agricultural land in the interest of the country. The administration and management of agricultural land being matters of primary concern, the question of ownership recedes in the background, and accordingly our Committee has held that there has been an undue emphasis on the question of ownership in the revenue policy of the Government of Bengal, and consequently an inadequate and unsatisfactory approach to the agricultural problems of the country. In improving the land system, land has always, unfortunately, been neglected.

Conditions on which the scheme of nationalisation of land is to be adopted, if at all.

Hence, the question, that nationalisation of land will lead to any advantage, can only be dealt with if we can know that Government will pursue a scientific agricultural policy without stopping at the realisation of the augmented land revenue which will also, in the first three decades, be swallowed up in payment of compensation money to landlords.

What would be the effect if the management is (a) carried on by the State, or (b) left to producers.

Q. 18. The question of nationalisation amounts to an empty phrase, unless the allied questions of control and management are clearly brought out in the picture. It is an important but a delicate matter to decide on the question of administration and management. If by the process of nationalisation it is definitely aimed that the State will own and administer the instruments of production, that is likely to lead to the worst form of bureaucratic control. The State does not act; it acts through a body of people, called Government. These agents will believe that what is good according to them is good for society. "Power has the habit of corrupting even the noblest of those who exercise it; and it follows that to leave to the State the final control of all other wills in the community is, in fact, to leave

to a small number of men an authority it is difficult not to abuse."[1] It is suspected that if Government controls as many undertakings as possible, it would be too powerful as against the people and the popular assembly—such an augmentation of governmental power would be dangerous to democracy. At the same time, the Government would be a bad administrator of the nationalised industry; no body manages industrial undertakings worse than the State.[2] If on the other hand, the instruments of production are left to be controlled by producers only, there is the danger that producers will look to their interest at the cost of efficiency and service to the community; they may raise their profit, diminish the quantity of production, increase the prices of products, etc. Producers must know that the instruments of production do not exist solely for their benefit. We have noted below the trends of modern thinking in the line of control and management of nationalised undertaking of agricultural land, only to emphasise the facts that the problem does not end at nationalisation, and that the questions of control and management are of greater importance. Accordingly, it is found that those who have advocated nationalisation have devoted special attention to laying down policies and agencies for control and management.

Schemes of administration current in England.

The Small Holdings and Allotments Act of 1908, to which the Conservative Party of England is committed, empowered County Council to take all the land which any individual owned in England and Wales in excess of 50 acres and to sell or lease it to a farmer or labourer. County Councils will have committees to attend to all matters relating to small holdings, and to promote the formation of Co-operative Associations among the occupiers of the holdings for banking, insurance and all agricultural purposes. The Labour Party's scheme of administration is roughly as follows: there will be County Agricultural Committees, consisting of an equal number of representatives of farmers and farm workers, chosen by their respective organisations, and members appointed by the Ministry of Agriculture from a list, including experienced persons, suggested by the County Council and other appropriate bodies. The Committee will enforce good husbandry, improve the existing method of cultivation and deal with other questions relating to administration. The Liberal Party's scheme of administration runs as follows: the administrative body will be popularly elected under the widest possible

[1]Prof. Harold Laski.
[2]Vide Otto Bauer, leader of the social democracy of Austria in his "Weg Zum Sozialismus (1919) quoted in "A History of Socialist thought" by H. W. Laidler.

franchise. Each administrative area should have its own representative body. Each county should be autonomous to the largest degree compatible with safeguarding the interest of the nation as a whole. Half of the members will be nominated and half provided by rural districts and by those urban districts which contain a minimum of 500 agriculturists each. Of the nominated members, two-thirds are to be nominated by the County Council, and one-third by the Ministry of Agriculture after consultation with the recognised agricultural organisations in the country.

The scheme of administration advocated by Messrs. Orwin and Peel is this. Each administrative county will be under the control of a qualified County Land Agent responsible to the Chief Administrator of Lands. The County will be divided into administrative districts, each of them under the charge of a District Land Agent responsible to the County Land Agent. The Chief Administrator of Lands will be appointed by the Ministry of Agriculture.

We have surveyed some of the schemes of administration current in England to find out a common measure of agreement. They agree on the following lines:—

(1) that there should be a separate department or agency for the purpose,

(2) that the administration will be decentralised, and there will be an amount of regional autonomy,

(3) that an elective element should be associated with the work of administration. (This is absent in the scheme of Messrs. Orwin and Peel).

Improvements suggested to meet the situation in Bengal.

Our country has yet to witness the adult franchise in the scheme of political Government. The training received from the exercise of franchise has not yet been adequate, as an extended political franchise is also of recent origin. Moreover, there are other peculiar conditions which do not warrant an elective body administering raiyats engaged in the sacred work of agriculture. The scheme of Messrs. Orwin and Peel is administratively practical, although it is criticised as being subject to all the objections against management by Government officials.[1] That criticism can be met if advisory committees,[2] partly elected and partly nominated, are associated with County Land Agents and District Land Agents. Our Committee does

[1]Vide Dampire's "Politics and the Land."
[2]An analogy may be found in the advisory committee associated with the administration of Court of Wards' Estates in the United Provinces.

not, at this stage, desire to commit itself to any scheme of administration, as its full picture can only be given if we can know the extent and manner of nationalisation.

The criterion which should weigh with Government in devising the land system.

Q. 19. The question sidetracks the fundamental principle of land economics, but lays stress on the wrong key. What raiyats will and do prefer in Bengal, that is a matter for the raiyats concerned; what raiyats should prefer, that is a matter for the State. The responsibilities of the State are grave: they should settle what raiyats ought to prefer. From a survey of the progressive land legislations in Europe,[1] it is abundantly clear that "peasant proprietorship" is more or less a courtesy expression; and that raiyats are disciplined and drilled into an approved line of conduct in the interest of agriculture. In the circumstances, it is no concern for the State to know what raiyats do prefer; it is a matter of supreme importance to know how can agriculture be best improved, and it is the sacred duty of the State to subordinate the rights of farmers to the interests of farms.

Raiyats under Government will show little improvement.

We have already observed that mere nationalisation indicates no solution of the land problem; it is the agricultural policy, launched by the State, which will determine the extent of success. Therefore, if the raiyats of Bengal come under Government and pay rent to it direct and Government is satisfied with realising rent as landlord, no improvement in the situation can be expected. Our Committee has, accordingly, no faith that a millennium will set in from the inauguration of peasant proprietorship or State landlordism; much depends on how Government proposes to regulate the parties interested in land in the furtherance of "better farming, better agriculture and brighter countryside." The revenue policy of the Government of Bengal, so far pursued, is not encouraging; our Committee hopes that the new agrarian policy will be based on broader and more imaginative outlook.

Condition of khas mahal tenants.

Our Committee trusts that khas mahal raiyats are not better placed than their compatriots in the estates of private landlords for, amongst others, the following reasons:—

(1) The raiyati incidence of rent per acre is Rs. 3 in the permanently settled estates, Rs. 4-6 in the temporarily settled estates and Rs. 4-11 in the khas mahal areas.

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[1]Vide "The Tenure of Agricultural Land" by Sachin Sen, wherein a survey of modern land legislations in Europe is made—pages 14 to 60, published in 1937.

(2) The realisation of rent in the khas mahal areas is made under the Public Demands Recovery Act and, accordingly, rents are realised more effectively and swiftly. Raiyats cannot fall in arrears, and it is undoubtedly to the ultimate good of raiyats. Private landlords show leniency which is not obtainable from Government; they wait up till the last moment and generally go to Civil Courts when the period of limitation is about to expire. Even in Courts, rent suits are dragged on, and it is a common experience that the rent suit begins in the fourth year and landlord gets a rent decree in the fifth or sixth year; during all these intervening years raiyats occupy the holdings without any payment of subesequent dues, not covered by the suit. This state of thing is only possible under private landlords. To ensure prompt realisation of arrear rents in khas mahal estates, the help of the police and the executive is also resorted to.

(3) In estates under private landlords the touch between landlords and raiyats is human, and necessarily sympathetic. There is understanding; much disobedience is forgotten, much wrong is forgiven. Whenever raiyats pray for mercy, they often get it. Unless certain raiyats are known to be deliberately refractory, landlords generally extend concessions as to the mode of payment of arrear rents, and they also remit interests thereon. In khas mahal areas there is no human touch; the mechanical administrative machinery goes on, and perhaps the efficiency of Government officers depends on the extent of realisations. Even if concessions (such as in emergent crisis of drought and inundation) are granted, they are generally done so out of a broader policy of the State; they thereby fail to establish personal human touch with individual raiyats.

(4) With Government officers in khas mahals the collection of rents is their routine work; with landlords the realisation of rents is a sacred obligation. Landlords have duties issuing out of rights; Government officers have rights, and their duties, if any, are catalogued and regulated by the authorities from above. In the circumstances, State-landlordism does not and cannot win over raiyats unless the State machinery, from the highest to the lowest, is informed by a spirit of service and sacrifice which cannot normally be expected from a bureaucratic organisation.

The Permanent Settlement provided for subinfeudation.

Q. 20. It was a settled policy behind the Permanent Settlement to encourage the creation of permanent tenures by zamindars. Section 9, Article VIII of Regulation I of 1793, clearly provided that the zamindars were privileged to transfer to whomsoever they might think proper by sale, gift or otherwise their proprietary rights

in the whole or any portion of their respective estates without applying to Government for its sanction to the transfer.

The historical necessities of subinfeudation.

The dismemberment of estates was further helped by the sunset law whereunder the deficiency in the payments of the zamindars was to be made good by selling a portion of their estates equal to the liquidation of it. The assessment at the Permanent Settlement was fixed high; it was expected, as Shore observed in his Minute of June 1789, that "several of the zamindars will incur penalties for the non-performance of their engagements, and it may be said that they (zamindars) will be sufferers, and not the Government, who will have a security in the land." In fact, the sunset law brought about quick changes in the ownership of many zamindaris, as many principal zamindars defaulted. Many zamindars saved themselves by the creation of patni and other permanent tenures which brought forth many prudent and vigilant landlords into existence as they, by employing their capital and abilities, rescued many zamindars and zamindaris. "It is certainly also for the interest of Government and good of the country," observed Shore, "that the great zamindaris should be dismembered; and the number of petty proprietors be increased. The raiyats or inferior renters, who suffer from the irregularity or inequality of the assessment, will obtain relief from being transferred to a more prudent, economical, or equitable management."

The dismemberment of principal zamindaris was saved to a great extent by subinfeudation.

At the time of the Permanent Settlement there were many territorial magnates, and it was the desire of the Ruling Power to see them dismembered. The creation of permanent tenures, through a policy of subinfeudation, saved many principal zamindars who could not, left to themselves, find their way to meet the revenue demand. This helped the growth of many inferior landlords within the principal zamindaris whose energy, prudence, and capital were extremely essential. They however minimised the influence and control of the superior zamindars. The following history of tenures is taken from Sir George Campbell's Administration Report for 1872-73:—

The history of tenures.

"At the Permanent Settlement, Government, by abdicating its position as exclusive possessor of the soil, and contenting itself with a permanent rent charge on the land, escaped thenceforward all the labour and risks attendant upon detailed moffusil management. The zamindars of Bengal proper were not slow to follow the example set before them, and immediately began to dispose of their zamindaris in a similar manner. Permanent undertenures known as patni tenures,

were created in large numbers and extensive tracts were leased out on long terms. By the year 1819 permanent alienation of the kind described had been so extensively effected, that they were formally legalised by Regulation VIII of that year, and means afforded to the zamindar of recovering arrears of rent from his patnidars, almost identical with those by which the demands of Government were enforced against himself.....It is a system by which, in its adoption by the zamindars, their posterity suffers, because it is clear that, if the bonus were not exacted, a higher rental could be permanently obtained from the land. This consideration has not, however, had much practical weight with the landholders. And if a gradual accession to the wealth and influence of the sub-proprietors be a desirable thing in the interest of the community, the selfishness of the landholding class is not, in this instance of it, a subject for regret.

The process of subinfeudation, described above, has not terminated with the patnidars and ijaradars however; gradations of sub-tenures under them, called dur-patnis and dur-ijaras and even further subordinate tenures, have been created in great numbers. And not infrequently, especially where particular lands are required for the growth of special crops, such as indigo, superior holders have taken undertenures from their own tenants.....All the undertenures in Bengal have not, however, been created since the Permanent Settlement in the manner above described. Dependant taluks, ganties, howlas and other similar fixed and transferable undertenures existed before the Settlement. Their permanent character was practically recognised at the time of the Settlement, and has, at any rate, since then confirmed by lapse of time."

The effect of subinfeudation on the agricultural economy of Bengal.

The creation of permanent tenures has thus brought out prudent investors in the field and associated a greater number of persons in the land system, but it has also widened the gap between superior landlords and raiyats. It has not, as is held, led to the increase of raiyati rental, because the margin left over to zamindars was distributed among the grades of landlords. It may be urged that in the absence of grades of landlords there would have been room for greater concessions to raiyats by zamindars in times of necessity, because of the large margin enjoyed in normal times. But it was found in the process of historical evolution that without the creation of permanent tenures many houses could not have been maintained at all. In strict logic, the creation of permanent tenures, in and between zamindars and raiyats and the consequential decimation of the margin of profit of zamindars, is not helpful for the growth of a simple landlord-tenant system. A particular estate providing living for various grades of landlords and raiyats becomes subject to pressure and strain and is likely to respond to deterioration at the first touch of an economic

blizzard. To that extent the land system becomes involved and complicated. There are gains on the other side: the country, having no varied avenues of employment, shifts its capital and ability to land; this has accelerated the pace of extension of cultivation and improvement of agriculture; the shortage of capital in the matter of satisfaction of farmer's needs has never been felt, although Government have always been chary in meeting the financial needs of cultivators; there have been gradations of classes in rural society which have added to its variety and richness; the village side has thus been quick with life and has withstood the tendency to urbanisation which was helped by the diffusion of western light and learning in the country.

The growth of Bengal's middle classes has been the result of the creation of permanent tenures by zamindars. Raiyats have practically got all the classes of people in the rural society interested in them and in their welfare. The greater number of people have thus developed a stake in the existing land system. In this wise, raiyats have gained the adherence and guidance of many people. It is equally true that so many people, being dependant on land for "livings" have transmitted a heavy pressure on land which is not wholly to the advantage of raiyats. And the absence of other wide avenues of employment is perhaps traceable to this. This has its gains; this has its defects too, which can only be lessened by a progressive agrarian policy.

To know how far raiyats have been affected socially and economically, it is relevant to know both sides of the case for the permanent tenures in Bengal. It is true that raiyats have to occupy socially a lower position, because the permanent tenures have brought in different grades of people above them, but economically their position was strengthened in so far as their needs were met by them collectively. Through slow but steady process of synthesis, the evils of social backwardness have been greatly mitigated. The Hindu society believes in accommodation and specific performance of duties by specific classes; and accordingly, class consciousness has not been able to gather sufficient momentum to generate class conflict and rivalry.

Q. 21. We have already indicated that the State purchase of all tenures will tend to revolutionary changes in the modes of production with which the social, political and ethical life of the people are bound up.

State purchase and middle classes—the political change in the country.

Politically, the predominance of the middle classes in the legislature will be extinguished. Under the Government of India Act, 1935, rural areas have received greater share of representation, and Bengal's middle classes, who form the tenure holding community, are most advanced politically; and naturally their importance in Bengal's

political life is inevitable. They are leading political movements, responsible for the growth of new political ideology, and are representing the country in the legislature as being trustworthy and tried political fighters. Those who are holding the political field and even leading extreme political movements are not raiyats, far less actual tillers. It is well known that the Bengal landlords having decent incomes so as to place them in the category of the upper ten are very few in number;[1] but the landholding community of Bengal forms her middle classes. The extinction of this community will throw the higher grade of raiyats into the political forefront, and the middle classes being uprooted from the countryside will flock to the towns in greater numbers; and it may, therefore, be said that the nationalisation of land will help the movement of urbanisation and the emergence of "petite bourgeoisie" in the political field. If it is true that Bengal will live in villages and her political work will have to be carried on for the improvement of the countryside; the existing middle classes, torn away from land, will cease to be important in the political field. Our Committee does not intend making any prophecy here that such a contingency will be all to the good or evil of the country; but this revolutionary change in the political field shall have to be taken note of, in considering the effects of nationalisation of land.

Legal profession—how affected by nationalisation.

Legal profession, like "a bewitching mistress," attracts our middle classes most, and in fact the maffasil pleaders deal with cases arising mostly out of the Bengal Tenancy Act, money suits connected with moneylending operations, and title suits related to partitions of estates and other rights connected with land. Land being nationalised, there will be State landlordism or peasant proprietorship. The State will realise rents through summary procedure; Government will have to

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[1]The electors of landholders' constituencies of the Bengal Legislative Assembly do not reach even one thousand in number. Their franchise qualifications are as follows:—

A person shall be qualified to be included in the electoral roll for a landholders' constituency if during the previous year he either—

(*a*) within the Burdwan and Presidency Divisions held in his own right as a permanent tenureholder one or more estates or shares of estates, or one or more permanent tenures or shares of such tenures held direct from a proprietor, and paid in respect thereof land revenue or rent or both amounting to not less than three thousand rupees, or road and public works cesses amounting to not less than seven hundred rupees; or

(*b*) within the Dacca, Rajshahi and Chittagong Divisions held in his own right as a proprietor or as a permanent tenureholder one or more estates or shares of estates, or one or more permanent tenures or shares of such tenures held direct from a proprietor, and paid in respect thereof land revenue or rent or both amounting to not less than two thousand rupees, or road and public works cesses amounting to not less than five hundred rupees:

Provided that a person shall not be qualified to be included in the electoral roll for more than one landholders' constituency, and a person who would but for this provision be qualified to be included in the electoral roll for more than one such constituency shall be included in the roll for that constituency in which he made the greatest payment of land revenue, rent or cesses, as the case may be.

satisfy the financial needs of farmers, and it will have special powers in realising their interests and other dues. Legal profession shall have to look to other sources, and before the country advances industrially and commercially, this profession will be in its languid state, and even when industrialised, the number of people absorbed in the legal profession shall have to be thrown out for provision elsewhere. We have taken legal profession as an illustration; but in Bengal many of the professions derive their competence, so to say, from incomes provided by land. If the direct filtration of the land income is checked by tearing away all the landlords from land, it will take years to adjust and fit in.

Nationalisation changing class relations.

Our Committee is not suggesting that no country can prosper in a scheme of State landlordism or peasant proprietorship. If agriculture improves prosperity will set in, and the question of ownership has importance only when it is considered in its relation to the improvement of agriculture. But it submits that a sudden change in the land system will lead to a change in the constitution of her social classes, political forces, economic structure, and cultural background.

Economic transformation under State landlordism.

With the disappearance of the landlord would go one of the farmer's principal creditors. For every bit of rural welfare work, the resources of Government shall have to be drawn upon. Even today, the recurring grants to schools, colleges, hospitals, and other beneficent works, involve a great amount of money, and the whole amount will be withdrawn. The liquid capital in the hands of moneylenders shall not possibly be thrown open for raiyats, as it is likely that there will be rigid restrictions on land alienation in a scheme of peasant proprietorship or State landlordism. If there is no such restriction, private landlordism will again rear up its head. Accordingly, land once nationalised, shall be nursed by financial assistance from Government. Even in a form of peasant proprietorship, it is the Government which has to act as landlord by giving financial assistance and other directions. Hence, peasant proprietorship is a form of land tenure in name, and is preferred for psychological satisfaction of the peasant; it is the State on which the entire responsibility rests. The entire economic structure shall thus undergo transformation.

Joint family system disintegrated under nationalisation.

The joint family system in the middle classes will suffer a change. It has thrived on rural atmosphere and rural civilisation. It will be a misfit in urban environments, and in an atmosphere of urban civilisation, the constitution of society becomes individualistic, a system which is foreign to indigenous culture and traditions. This change in

outlook will involve not an inconsiderable strain on our people. The religious festivities and the social amenities of the countryside, which embrace all classes of rural people, are still provided for by the wealthy people of the locality, and along with the extinction of the landlord there would go many such festivities and amenities. Those who do not know Bengal's villages cannot recognise the importance of landlords in the countryside. The spirit of exclusiveness which has never pervaded our rural society will destroy old ties, old customs and old traditions.

Q. 22. If the zamindars and tenureholders are purchased naturally their attraction to live in the countryside will be reduced. Wealthy people may have country houses in villages after their likings. But, landlords will have little temptation in keeping their old homesteads, unless sentiments play a great part. They would naturally like to be away from the place where they had once power, position, prestige and influence.

Landlords may keep khas lands.

But it will be a wise policy to give option to landlords to keep their khas lands in perpetuity and with full rights of ownership. In our country the sources of employment are very limited. It is quite natural that a large number of landlords will prefer to take to farming, and in that event khas lands should be placed under their disposal. Those who will not prefer it may have the liberty of getting the khas lands purchased along with the tenanted lands. When land will be nationalised as a matter of State policy, this option should in fairness be given to them. Those who will keep khas lands will naturally like to see their homesteads preserved.

Khas lands should broadly include those lands which are not tenanted and which are worked by hired agricultural labourers. Section 120 of the Bengal Tenancy Act lays down rules for determination of the proprietor's private land.

Occupancy raiyat—a creation of British legislation.

Q. 23. Our Committee contends that the occupancy raiyat, as we find to-day, is a creation of British legislation; he first appeared in the scene under cover of the Rent Act of 1859, and his rights have been broadened by subsequent tenancy legislations. The concept of occupancy right, as put forward by the Rent Act and encouraged by subsequent Acts, differs fundamentally from the one which was prevalent in the Hindu period, Muhammadan times, and at the time of the Permanent Settlement. Our Committee will accept the best authorities, friendly to raiyats in the matter, and try to impress the Commission that the incidents of "occupancy right" as created by British legislation were altogether different from those which we found

in the "earlier period." It may also be noted that the expression "occupancy raiyats" was also for the first time used in the Rent Act of 1859; and before that, the raiyats having a right of occupancy were known under the appellation of "khudkashts." With this terminological change there had been a large change in the contents of occupancy rights, and the change, it will be seen, was a change for the worse.

Khudkashts in the Hindu period.

During the Hindu period, there were three classes of cultivators having interest in the soil: first, the original settlers and their descendants; second, the immigrants who had permanently settled in the village; third, the mere sojourners in the village. The first two classes formed the class of khudkasht (own cultivating) raiyats, and "they had an hereditary right to cultivate the lands of the village in which they resided." They were also called *chupperbund* (house-tied), *mauroosi* (hereditary) and *thani* (stationary). They could not be ousted while they continued to cultivate their holdings and pay the customary revenue; but on the other hand, they could not originally transfer their holdings without the consent of the community. They paid a higher rate of revenue than other cultivators, such as paikashts. (*Vide* Phillips' Tagore law lectures, 1874-75.)

Khudkashts in Muhammadan period.

The rights of khudkashts were little disturbed in the Muhammadan period. "In the persistent force both of the cultivator's right to the land and of his obligation to cultivate it and pay the tax, we find a strong resemblance to the position of the khudkashts as they have come down to us from Hindu times. How far this element in the observed phenomena is due to the influence of Muhammadan theory, it is impossible to say: so far as we can judge, these rights of the Hindu khudkashts appear to have been analogous to, but not derived from, Muhammadan practice; and it is very probable that such analogies led the Muhammadans to disturb what they found existing so little as they seem to have done." (*Vide* Phillips' Land Tenures of Lower Bengal, pages 50-51.)

The status and rights of khudkashts in pre-Settlement period examined.

There are many distinguished authorities who have made significant observations as to the status and rights of khudkasht raiyats at the period previous to the Permanent Settlement. Some of them are quoted here to find out the incidence of the raiyati right—

(A) "Pattas to the khudkasht raiyats or those who cultivate the land of the village where they reside, are generally given without any limitation of period, and express that they are to hold the lands paying the rents from year to year. Hence the right of occupancy originates;

and it is equally understood as a prescriptive law that the raiyats who hold by this tenure cannot relinquish any part of the lands in their possession, or change the species of cultivation, without a forfeiture of the right of occupancy, which is rarely insisted upon; and the zamindars demand and exact the difference. I understood also that this right of occupancy is admitted to extend even to the heirs of those who enjoy it. But though his title is hereditary, yet the raiyat cannot sell or mortgage his land." (Mr. Shore's Minute of June, 1789.)

(B) Cultivators possessed "a fixed hereditary right of occupancy in the fields cultivated by them or at their risk and charge; their tenure being independent of any known contract, originating probably in the mere act of settlement and tillage, and the engagements between them and the zamindar or (in the absence of a middleman) the Government officer serving, when any formal engagements are interchanged, not to create the holding but to define the amount to be paid on account of it. They cannot justly be ousted so long as they pay the amount or value demandable from them; which is determined according to local usage, sometimes by fixed money rates varying with the quality of the land or the nature of the crop grown; sometimes by the actual delivery of a fixed share of the grain produce; sometimes by an estimate and valuation of the same; sometimes by other rules." (Mr. Holt Mackenzie in his evidence before the Select Committee of the House of Commons, 18th April 1832.)

(C) Khudkasht raiyats are "resident raiyats cultivating lands in the villages in which they reside. They hold by prescription and cannot legally be turned out as long as they pay rent." (Mr. Welby Jackson, 27th August, 1852.)

"I do not think that the right of occupancy was formerly confined to those who had acquired such a right by prescription. It extended to all who had given unequivocal proof that they intend to remain at the place of their settlement and who had been recognised as fixed residents of the locality, although their holding may have been of recent date." (Mr. Justice Norman in the Great Rent Case: Thakooranee Dossee *v.* Bisheshur Mookerjee and others, 1865.)

"To be a khudkasht raiyat at all implies that the raiyat must not only be a cultivator of lands belonging to the village in which he resides but he must be a hereditary husbandman. A khudkasht right is not acquired in a day but is transmitted, and it has never, so far as my knowledge extends, been laid down what exact length of holding gives a title to a tenant to consider himself a khudkasht raiyat." (Mr. Justice Steer in the Great Rent Case, 1865.)

(D) According to justice Field, two elements were necessary to constitute a khudkasht raiyat: residence in the village and occupation of land forming part of the village. The definition of "khudkasht"

in Wilson's Glossary is "a cultivator of his own hereditary lands." The word "khud" means self or own, and "kasht" means "to sow."

"A raiyat has nevertheless a title of occupancy, in right of which he may retain his land, so long as he continues to pay the rent in conformity with the custom of the country, or with his own particular engagement." Colebrooke in 1794.)

"Distinction from these claims are the rights and privileges of the cultivating raiyats, who, though they have no positive property in the soil, have a right of occupancy so long as they cultivate to the extent of their usual means, and give to the sircar or proprietor, whether in money or in kind, the accustomed portion of the produce." (Indian Government, October 1790.)

(E) "In the general opinion of the agricultural population, the right of the raiyat is considered as the greatest right in the country; but it is an untranserable right. The raiyat may, if harassed by our assessment, leave his lands, quit the neighbourhood, and return when he chooses and reclaim the lands, and raiyats holding them will always resign them to him. The right never seems to die." (The Third Report, Select Committee, 1831.) Be it noted that the right also never revives unless the raiyat comes back for residence and cultivation.

(F) "The khudkasht raiyats pay the highest rents." (Mr. Shore's Minute, June 1789.) "There is a peculiarity worthy of remarks in the cases in which the casual and perpetual occupants hold under the Government, that the perpetual occupant pays the larger rent of the two, his lands are more highly assessed." Mr. J. Mill, 4th August, 1831.) The vagrant raiyats take land at an under-rent (Phillip Francis, 1776). The settled raiyats, the ancient inhabitants attached to the soil by the bonds of affection, habit and property were made to pay heavier rates than the mere temporary sojourners (Sir George Campbell).

The incidents of khudkasht right summed up.

From the above quotations the following incidents of the khudkasht right can generally be inferred:—

(1) Residence, hereditary, and cultivation are the factors that go to constitute a khudkasht raiyat.

(2) The khudkasht right is an untransferable right. Sir George Campbell, Mr. Shore, Mr. Harington and others agree with this.

(3) The practice of subletting was not legal; it grew up through custom. Moreover, there was "not enough profit derived from them to lead to systematic underletting." The position is explained very clearly by Sir George Campbell in his Cobden Club essay: "Under native rule the rights in the land, whatever they may be, are not bought and sold in the market. As regards the occupancy of the

peasants, the rent which gives the real value going to the Government and the claim of the peasant being rather a privilege, deriving its value from sentiment, affection and habit, than a property capable of being estimated in money, there was little room for mercantile dealings. Nor was there any margin of profit which admitted of systematic subletting. Transfer from one hand to another did occur, but the communities claimed a right of veto, and would not permit the entrance by purchase of a stranger disagreeable to them. The general feeling prevented a man from alienating his land for ever. Hence, if the occupant was unable to cultivate his land or to pay the revenue, when he did not simply run away, the ordinary form of alienation was, not by selling or letting, but by mortgaging, if the term can properly be applied to the transaction. The mortgagee or depositary, undertook to discharge what was due upon the land and obtained the use of it, while the original owner retained an almost indefinite right of reclaiming it on repaying the mortgagee.....The seizure and sale of land for private debt was wholly and utterly unknown."

(4) The rate of rent payable by resident raiyats is determined according to local usage and is thus variable with the quality of land or nature of the crop.

(5) A raiyat can enjoy his right of occupancy so long as he cultivates and pays his stipulated rent.

(6) A resident raiyat paid the highest rent.

Two classes of khudkasht raiyats.

There was a distinction between raiyats settled as permanent inhabitants and cultivators in a village "who had given pledges by building and clearing and establishing themselves, and had accepted a share of common obligations," and those other raiyats who were avowedly mere temporary sojourners. According to Mr. Justice Trevor in the Great Rent Case, 1865, the khudkasht raiyats were at the time of the Settlement divided into two classes, the khudkasht kudeemee (those who had been in possession of the land for more than 12 years before the Settlement) and the simple khudkasht (those whose possession did not run back so long). Whatever be it, the incidents of the khudkasht right mentioned above are more or less accepted by all, and they thus involve a great departure from the incidents of occupancy right created by British legislation.

Occupancy right as framed by Act X of 1859.

By Act X of 1859, a new species of right, called an occupancy right, was conferred upon cultivators who had occupied their holdings for twelve years or upwards. Act X of 1859, section 6, re-enacted by Act VIII of 1869, section 6, provides that "every raiyat who shall

have cultivated or held land for a period of twelve years[1] shall have a right of occupancy in the land so cultivated or held by him, whether it be held under patta or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khamar, nij-jote or sir[2] land belonging to the proprietor of the estate or tenure and let by him on lease for a term, or year by year, nor (as respects the actual cultivator) to lands sublet for a term, or year by year, by a raiyat having a right of occupancy. The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat within the meaning of this section."

Section 21, Act X of 1859, provides that no raiyat having a right of occupancy shall be ejected otherwise than in execution of a decree or order under the Act. The grounds of enhancement of rent are rigidly laid down in the Act, and they are: (1) the rate of rent paid by such raiyat is below the prevailing rate, (2) the value of produce or productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat, (3) the quantity of land held by the raiyat is proved by measurement to be greater than the quantity for which rent has been previously paid by him.

Position of occupancy raiyat in the Act of 1859.

Under the provisions of the Act of 1859, the position was this—

(1) A raiyat, be the khudkasht kudeemee or simple khudkasht or paikasht, cultivating or holding land for 12 years, is entitled to an occupancy right. The Act divided raiyats into three classes: raiyats at fixed rates since the Permanent Settlement or whose rents had not been changed for twenty years, occupancy raiyats, and non-occupancy raiyats. This was a new classification, and khudkasht raiyats were obliterated.

(2) The "raiyat" is not defined; he may continue to be an occupancy raiyat even after subletting.

(3) The raiyat in order to acquire a right of occupancy need not himself actually cultivate; it is enough if he derives his profits directly from the produce.

(4) Ejectment for arrears of rent cannot take place except through the execution of a decree or order under the Act of 1859. Crops could be distrained for the arrears of one year only.

(5) Enhancement of rent cannot take place except on the grounds specifically mentioned.

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[1]The period of prescription in the case of land was twelve years in India, and this had probably some influence in determining the period chosen. *Vide* Field and Phillips.

[2]All these expressions mean proprietor's private lands which are known at different places under different names.

(6) The Act being retrospective as to the commencement of the holding, the occupancy right may be acquired by a holding partly before and partly after the passing of Act X of 1859. (*Vide* Phillips.)

Difference between khudkasht right and the new occupancy right.

Before Act X of 1859, raiyats were generally divided into two classes and the fundamental division was based on residence. The concept of a non-cultivating raiyat was absent. Act X made the division by reference to the period of occupation (not even cultivation). It thus "gave to the paikasht raiyat with twelve years' occupancy the same privileges which khudkasht raiyats generally possessed and deprived the khudkasht raiyats without twelve years' occupancy of holdings and they were placed in the same position as the paikasht raiyats without occupancy were." Thus the occupancy raiyats are not the successors of the khudkasht raiyats. The direct effect of the legislation, it was found, was that a large number of tenants, who before the Act were mere tenants-at-will, at once acquired a protected tenure. It was at the same time observed that the selection of twelve years, as the necessary period of prescription of occupancy, inflicted serious injury on the resident raiyats by placing them in the position of tenants-at-will in respect of all lands, of which they could not prove twelve years' continuous occupancy. Many new raiyats who were settled on waste lands acquired occupancy right through continuous holding for twelve years. Residence was rejected; we shall see even cultivation was not insisted upon; possession for a definite period was the foundation of the occupancy right. A raiyat subletting his holding did not cease to be a raiyat; a tenant-at-will through sheer force of 12 years became a protected tenure. It was clear that all these formed "a new species of right."

The incidents of occupancy right, as given by Act X of 1859, are enumerated above only to convince the Commission that the legislature did not revive old rights; it rather created new rights to the prejudice of the old ones.

Incidents of occupancy right extended by later legislations.

Since the Act of 1859 the incidents of occupancy right have been extended by various tenancy legislations, and the present position may be briefly described as follows:—

(1) "Raiyat" is defined in a way which admits a non-cultivator in its fold.

(2) The occupancy right is now a transferable right and all restrictions are taken away.

(3) To be an occupancy raiyat, one need not be either resident or hereditary or cultivator. The old idea of deprecating strangers acquiring raiyati rights in a village is abandoned.

(4) Because of the commercialisation of occupancy right, it is practically in the hands of a class of non-cultivating land speculators, whose protection was never contemplated by the framers of the Permanent Settlement or by the earlier jurists.

(5) An occupancy raiyat pays the lowest rent; hence the old position is thoroughly reversed.

(6) Even by defaulting in payment of rent an occupancy raiyat does not forfeit his rights and privileges; he cannot be ejected unless his holding is sold under a decree of the Court. There can be no distraint on his crops—a practice which was in existence from a very early period. Even in the matter of successive rent suits, some period (at present 9 months) will intervene, and thus the defaulting tenantry is encouraged.

(7) At present, even the restricted provisions for enhancement of rent are suspended.

Occupancy raiyats are not the successors of khudkasht raiyats.

All the above incidents, it will be found, are the creations of "British legislation." They were not in existence up to the time of the Permanent Settlement. The old position may be said to continue till 1859 when the occupancy right was given a new interpretation which led to the present position. It is, at this stage, idle to maintain that the Tenancy Acts have only restored the raiyats to their former rights; to be accurate, they have created definite new rights. "Khudkasht raiyats" have no affinity to the "occupancy raiyats" of to-day, and to establish a chain between the two classes is to misinterpret the basic foundation of the rights of raiyats, then and now. The question, with which we are dealing, however seems to suggest that there is such a link. It is not true. We shall discuss elsewhere that these new incidents of occupancy right have been created and the old incident neglected in disregard of the fundamental principles of land economics.

Family as the unit in India.

Q. 24. In Hindu India, the village community was strong. The village community was an aggregation of families. The family consisted primarily of those who belonged to it by consanguinity; secondly, of those who had been engrafted on it by adoption; and thirdly, of those who were joined to it by common subjection to its head (who were called slaves). In a community so situated, law and custom reach the heads of families, and "to every individual the rule of conduct is the law of his home." The movement of progressive societies has been distinguished by the gradual dissolution of family dependency and the growth of individual obligations in its place. In India, the family is still considered as the unit.

"Rights" have a vague meaning in India.

In our country we speak of rights in a vague way; rights may mean legal rights exercised or not; moral rights; the right of might; and customary rights. To find out a distinction between express law and custom is very difficult in India; as custom, to quote Sir George Campbell, is the only "ever surviving law of the East." The distinction between law and moral precepts was not marked, as we find in Manu "mere moral precepts mixed up with what we should consider definite law."

The Hindu system hardly contemplates "exclusive individual rights at all." "All property in ordinary cases was the property of several and not one alone. The movable property as well as the land of the family belonged to the family jointly." It probably was the joint property of the village community. At this stage no family, much less any individual, could dispose of any land. "When the family, and later the individual, could not transfer land without the consent of the village, not only had the recognition of individual rights not been reached, but transfer of land can scarcely have been contemplated."

The meaning of ownership. Right in land extended only to the right of cultivation.

It is true that Manu and other Hindu law givers referred to the cultivators as the "owner" of land and rendering a share to the King as such. There is also mention of the sale of land and metals.[1] At the time of Manu the theory of joint family property was not abandoned.[2] Even if the stage of individual property was reached, it was relevant to know what the "right in land" meant. The rights, in fact, do not "appear to contemplate any ordinary use of the land except for the purpose of cultivation." This was very forcibly expressed by Mr. Arthur Phillips, a distinguished commentator on land tenures, in his Tagore Law Lectures[3] in the following manner:—"When we find that the occupant was bound by custom as well as by law to cultivate, and to cultivate in the customary manner, we are forced to conclude that the only purpose for which the soil could have been considered of value was for the purpose of cultivation. Whatever further capacity the soil may have had was not sufficiently brought home to the minds of the parties interested in it to induce any one to claim it; much less to give rise to that continuous and deliberate assertion of a claim which would have sufficed to constitute a customary

[1] "Sages who know former times consider this earth as the wife of King Prithu and thus pronounce cultivated land to be the property of him who cut away the wood, or who cleared and tilled it, and the antelope of the first hunter who mortally wounded it" (Manu). "The right so acquired might be sold, given, bequeathed, or otherwise alienated at the discretion of the individual." (Halhed.)

[2] One of the principles of the Hindu Law of inheritance is that all male heirs possess a joint interest in patrimonial property which is absolutely inseparable without the consent of all the co-parceners.

[3] In 1874-75. Vide Phillips' "Land Tenures of Lower Bengal," p. 222.

right to the soil itself. And we do not find that the question was ever raised, or that any deliberate or continuous claim to the ownership of the soil itself was ever put forward in Hindu times."

Thus the cultivator as an original settler, or the descendant of an original settler, had a right to occupation for the purpose of cultivation; the King claimed and received his share of the produce as prescribed by law. There was thus "a sort of joint proprietary right to the produce in the King and the raiyat. But beyond the produce no value in the land, and consequently no rights in the land, appear to have been contemplated in Hindu times."

Possession denotes not simply "physical detention" but also the intention to hold the thing detained as one's own. It is contended that time and undisturbed enjoyment had ripened the holding into a species of ownership by virtue of "prescription". Here, possession was definitely for the purpose of cultivation. A tenant forfeits his land if he fails to provide a crop.[1] Moreover, there is a distinction between the right to possess which is a consequence of ownership and the right of possession which is independent of ownership.

The commercial value of land not grasped in early times.

The commercial value of land was not grasped, as is pointed out by Phillips, Sir George Campbell and others. That was due to the difficulties of transfer, conservative habits of the people, and want of a market. That was a stage when the country was sparsely inhabited; much of it was waste, and land could be "had for the asking." The competition was not for lands but for tenants. Hence, "land had little marketable value and there was no market for it. The right which was bequeathed, sold or alienated related to the right of cultivation. The sale of land was hardly thought of; land was bequeathed and inherited for the purpose of cultivation and the enjoyment of this right depended on the payment of the share of crops, as occasionally fixed."

Hindu system persisted even in Muhammadan period.

The Hindus seem to have borrowed little from their Muhammadan conquerors either in the way of ideas or institutions. It is true that

[1]There is no trace in express Hindu Law of a right in any one to take the land out of cultivation, and to turn it into a pleasure ground for instance, or to exhaust all the minerals under it. The owner of the field is advised by Manu not to let it fallow by sheer negligence and to keep up sufficient hedge.

"For damage caused to his field by negligent herdsman in charge of cattle, the owner is entitled to compensation, and fines are payable to the King—" Manu.

"If a lessee of land does not exert himself and the land bears no crop in consequence, he is bound to pay the value of the crops that ought to have been grown on the land leased"—Apastamba.

"When a field was abandoned by the owner and the same was cultivated by another without opposition, the cultivator was entitled to the whole of the produce, and the owner would not get back the land without paying the cost of clearance and cultivation"—Narada.

Similar observations are found in abundance, and they inform us that the "owner" had not anything more than a right to cultivate and appropriate the produce after paying his share to the King.

the Muhammadan was much more familiar with individual property. The Muhammadan had no joint family system; he had a centralised system of Government, and was averse to anything hereditary. Thus the Muhammadan ideas run counter to the accepted maxims of Hindu jurisprudence. But the Hindu ideas persisted; either from motives of policy or convenience, the Hindu system in all matters relating to land was "substantially untouched by the Muhammadans." The right to occupy, cultivate and retain a share of the produce, which was asserted in Hindu times, was respected by the Muhammadan conquerors. The historians have accepted this standpoint.

The history of the growth of zamindars.

Along with the organisation of the village there ran a machinery for the collection of revenue, land revenue being the main source of income. Though the principle of equal division of property extends to every part of the Hindu institutions, yet, whatever public office or political power developes at the decease of the last incumbent, "the succession is nearly universally according to the rules of primogeniture." All offices in Hindu India were hereditary. The fiscal machinery consisted of the village headman who remitted the payment to the "chowdhury" in charge of a pargana, who, in his turn, transmitted the revenue to the treasury. The State's revenue officers were the village "gopas" whose duties were to prepare various registers; above the "gopa" stood the "sthanika" (Circle-Officer) who was responsible for a large area. At the top of all stood the "samaharta" (Collector-General). All these offices were hereditary and they were often paid by assignment of lands. The beginning of the institution of landlordism could be found in the fiscal machinery and in the mode and manner of payment. In course of time, the King lost connection with individual raiyats; the village headmen were responsible for the stipulated quota; every subordinate officer was responsible to the superior officer for fulfilling the amount of revenue. The same fiscal machinery, with changes in names, was continued in the Muhammadan times. Thus, we learn that by Akbar's time, the zamindars in Bengal were "numerous, rich and powerful." The payments to be made by raiyats were settled by zamindars; the arrangement of the State was with zemindars. In this way, the institution of landlordism grew. Sir George Campbell, in his Cobden Club essay, confessed that he was *labouring* under a wrong impression that the zamindars, with whom the Settlement of 1793 was made, were mere tax collectors but his connection with Bengal had convinced him that the position of zamindars, who were recognised proprietors, was not overestimated.

We have indicated to what extent actual cultivators were "owners." The right only extended to cultivation and appropriation of the "remaining" produce. The rents paid by them were not a form of tax to the State, as it has been shown that the State along with others had

a right to the produce. The share of the produce accordingly varied in respect of different kinds and different modes of cultivation. Moreover, hereditary Government officers being assigned responsibilities for filling up the quota of land revenue, cultivators were removed from direct connection with the State, and left with a subordinate position. The zamindars appeared in the scene, and before them "all rights sank."

Incidents of occupancy right depart from principles of land economics.

Q. 25. We have roughly indicated in our reply to question 23 that the incidents of occupancy right, as they exist today, involve a departure from the fundamental principles of land economics. Our Committee submits that if the Bengal Tenancy Act would not have strayed from the accepted principles of agricultural economics, the deterioration of landlordism, and necessarily of agriculture, could have been greatly checked. We premise that the landlord's position in agriculture is not of privilege but of utility. It is equally true that "the tenant's occupancy of agricultural land is a form of national service, and so rests his right to occupy on his proper use of land." These principles were recognised by the Permanent Settlement Regulations; they were abandoned by the Bengal Tenancy Act. We have repeated again and again, that this shifting of attention from land to landlords and tenants, as evidenced in the tenancy legislations, has been responsible for the breakdown of landlordism and decline of agriculture. It is freely suggested by critics that landlords do not perform their functions; but they do not care to inquire into the restraints provided for by the tenancy legislations. Those critics, however, show undue enthusiasm in turning a class of raiyats under cover of the tenancy legislation, into the position of rent-receiving functionless tenants. The incidents of occupancy right have been broadened in a way which do not ensure performance of raiyati obligations, nor are they conceived in the interest of agriculture. An occupancy raiyat smoothly converts himself into a rent-receiving landlord, by subletting to an under-raiyat, or can degenerate himself into an under-raiyat by transferring his occupancy right to his moneylender. He can enjoy all his rights and privileges without specific performance of his duties and proper use of land—the purpose for which his tenancy was created by the landlord. In the face of all this, it is difficult for our Committee to find out what principles of land economics were imported into the creation of this kind of occupancy right which is sought to be extended to "more than one grade of tenant."[1]

[1]The expression "tenant", as used in the question, is a bit confusing. It is, perhaps, intended to convey the meaning of "more than one grade of raiyat." Under the Bengal Tenancy Act both tenureholders and raiyats are "tenants," and as such "under-raiyats" and other raiyats do not form a gradation of "tenants" but of "raiyats."

A policy of "cultivating tenure" favoured.

The incidents of the khudkasht tenure, as we have already observed, were more scientific and suited to the improvement of agriculture. The principles of khudkasht tenure are, more or less, followed in the Rural Report of the Liberal Land Committee, England, 1923-25, where a policy of "cultivating tenure" was advocated. On account of the fundamental position of agriculture in our national life, it will be the right and duty of the State to see that the Tenancy Act is framed in a way which will—

(*a*) create conditions of "cultivating tenure" so as to give actual workers in the soil the utmost freedom, encouragement, and security for helping efficient production and for the disposal of the produce;

(*b*) preserve full opportunities of access to land for those who are best qualified to use it;

(*c*) protect agricultural land from misuse and exhaustion either due to bad farming and fragmentation of holdings or to other factors;

(*d*) bring into agricultural use any land capable of cultivation, and not at present cultivated;

(*e*) give agriculture the full benefit of its national credit sources and rescue land from the plight of under-capitalisation;

(*f*) root out the impediments to the performance of the functions of landlords and raiyats.

(*g*) raise to the maximum the population which the land can support at a proper level of subsistence. In short, the holding of any portion of agricultural land by raiyat must be conditional on full use being made of it for the national service which it can best render, and in a scheme of "cultivating tenure" those who are best qualified to use it should be given all these privileges.

The case for reforming occupancy rights in the interest of good husbandry.

Our Committee has shown that an occupancy raiyat of to-day, as created by the Tenancy Act, can afford to be negligent in cultivation, dilatory in payment of his dues, non-cultivating land speculator, absentee rent-receiving sinecurist, and on the other hand can hamper well-meaning interference by landlords in the improvement of holdings, stop any access of landlords to the holdings, hinder landlords from launching on or initiating any good scheme, and depress the agricultural value of holding by indiscriminate subdivision, subletting and other forms of transfer. All this is being pointed out, because the

question under discussion takes for granted that the principle of occupancy rights, as applied, has been a salutary one, and that we are to find out what grade or grades of raiyats will be protected by the "occupancy right". Out Committee desires to fashion occupancy right, bearing in mind the principles of land tenure enumerated above, and it will be found that the cultivators should have "occupancy right", the incidents of which should not be framed in a way as to defeat the very purpose for which raiyats are tenanted or settled.

Our Committee is, therefore, in favour of reforming the "incidents of the occupancy right" and of extending the right, as modified, to the raiyat following the rules of good husbandry in the task of cultivation. Accordingly, the last grade of raiyat, who is an actual cultivator, should enjoy the occupancy right properly framed, but special arrangements are to be made so that women, children, old men and invalids, who cannot undertake cultivation, will be entitled to continue in the enjoyment of the occupancy right, even if their lands are sublet to other tenants for the purpose of cultivation.

The concept of "raiyat" in Tenancy Act—an unscientific arbitrary rule of definition.

Q. 26. Our Committee desires to impress the Commission that "landlord" should be, and is defined as the person for the time being entitled to the rents and profits of any land. This concept of "landlord" is accepted in agricultural economics. Accordingly, raiyats subletting their lands to under-raiyats are *de facto* landlords although under the Bengal Tenancy Act they are not so under an arbitrary rule of definition. In the Agricultural Holdings Act, 1923, which regulates the relations of landlords and tenants in England and Wales, "landlord" means any person for the time being entitled to receive the rents and profits of any land and "tenant" means the holder of land under a contract of tenancy (*vide* section 57). This concept is followed in the Punjab Tenancy Act whereunder an owner of an estate, who cultivates himself or by hired labour and has no tenant, is a proprietor but not a landlord, while a raiyat who collects rent from an under-raiyat is a landlord. Landlord thus includes an ocupancy tenant subletting his land.

Legislation for the "occupancy raiyats" of Bengal Tenancy Act is not for the protection and welfare of actual raiyats.

In this view of things, it will be very hard to maintain that we shall be doing good to raiyats by protecting those who have sublet their entire holdings. In respect of the portions of lands sublet, a raiyat, or under whatever nomenclature he is advertised, is essentially a landlord, and has or should have no right to enjoy privileges incidental to the right of cultivation. In the whole questionnaire we have

not come across any question seeking to find out how will and can the zamindars and tenureholders be helped and safeguarded in their rights and privileges essential for playing their role. But the Commission seeks to devote some hard thinking to find out ways of protecting raiyats who have, by their own actions, turned themselves into tenureholders, that is, landlords. If the Tenancy Act perseveres in calling them raiyats, they do not remain so in fact, and by protecting them, we cannot have the consolation of legislating "for the protection and welfare of raiyats."

Cultivating raiyats should have restricted rights of alienation.

Our Committee, accordingly, suggests that those who will take lands for the specific purpose of cultivation and as raiyats, should have very restricted right of alienation of their own lands; ordinarily, they should cultivate by their family or in conjunction with hired labour. In special circumstances, they may sublet for a fixed number of years. Restrictions on transfer and subletting are found in the Agra Tenancy Act, the Punjab Tenancy Act, Madras Estates Land Act and other tenancy legislation.

Difference between non-agricultural and agricultural lands.

Q. 27. The primary objective of the Permanent Settlement was improvement of agriculture, and it was expected that the improvement of industry and commerce would flow therefrom. Non-agricultural tenants naturally fall outside the orbit of the Permanent Settlement. Agriculture is the fundamental industry of Bengal, and naturally cultivators are given special protection in the interest of agriculture which forms the wealth of the country. Cultivators, by pooling their labours and energies for the improvement of agriculture, are entitled to special consideration. They are secured in their rights to accelerate the pace of agricultural progress. With non-agricultural tenants, these considerations do not weigh. Non-agricultural tenants are private individuals, and the safeguarding of their interests to the prejudice of other individuals, that is private owners of non-agricultural lands, has little meaning, less justification, as the special treatment of non-agricultural tenants does not add to the wealth of the country in any direct manner. With agricultural tenants the case is otherwise. The whole community is interested in their security, as their operations will nurse land, improve agriculture, and enrich the country. In the case of non-agricultural tenants, it is a matter between this individual and that individual. So long as the principle of private property is accepted and the acquisitive order of society recognised, it is only fair and equitable that the relations between landlords of non-agricultural lands and non-agricultural tenants should be governed by the law of contract. The play of private capital and competitive basis should not be undermined in any arbitrary manner. The State can, and does, only interfere if its

interference is justified in the interest of the general community at large. By giving specific concessions to non-agricultural tenants, Government does not advance the cause of society in general; the State merely helps certain private individuals by prejudicing the rights of other individuals. The case of Government interference in the interest of non-agricultural tenants does not thus gather any force; it has no incentive of service to society or to the people. Our Committee urges on the Commission to take note of the vital difference between non-agricultural and agricultural lands. The principles, adopted with regard to agricultural land, cannot therefore be applied to other forms of private property. That will be misjudging the special character of agricultural raiyats.

Our Committee, in the circumstances, strongly opposes the granting of occupancy rights to non-agricultural tenants.

Non-agricultural lands subjected to Indian Income-tax.

Q. 28. In our answer to question 27 we have indicated the vast difference between the tenants of agricultural and non-agricultural lands; we have maintained that agricultural tenants call for separate treatment. Accordingly, the agricultural holdings, when coverted into non-agricultural lands, do not deserve special treatment, and the rights of agricultural tenants cannot, in all fairness, and should not, persist. The logic of special concessions to tenants is lost.

The incomes from non-agricultural lands are subjected to tax under the Indian Income-Tax Act. It is not, therefore, clear what is meant by the State levying "an additional tax" on the converted holdings when, in fact, they are being so subjected. Our Committee, therefore, opposes the levy of any additional tax on such converted lands.

Metayage system very useful to agriculture.

Q. 29. Our Committee thinks that the number of produce-sharing tenants in Bengal is on the increase. In West Bengal, where the crops are relatively uncertain on account of flood or uncertain rainfall, the "metayage" tenancy is natural. In the East Bengal districts, where harvests are practically assured, cash rent is the natural system, although bargadars have appeared in the scene. We shall discuss later that a healthy system of metayage, which is very popular in Italy, France and America, is very useful to agriculture.

The reasons for the prevalence of "bhagchas".

The system of barga or bhag is an arrangement under which a person cultivates land, gives a share of the crops raised to the owner of land, and keeps the remainder as his remuneration. "Adhi" is a similar arrangement in which the produce is divided half and half. The

reasons for the spread of the produce-rent system are generally stated to be the following:—

(1) The costs of agriculture have increased but the returns thereof have diminished. The higher castes with a view to distribute the risks prefer "bhag bili" which is to the natural advantage of both parties. In some parts of the Burdwan division landlords are to induce the aboriginal castes to take to cultivation by attractive terms on the produce-rent basis.

(2) In many instances smaller families, broken down by malaria and consequential low vitality, sublet on the produce-sharing basis.

(3) The moneylender who purchases a holding generally creates a new tenancy by changing cash rent into produce rent.

(4) Higher castes because of their natural inclinations, social status and shastric injunctions do not cultivate themselves; they sublet either on cash-rent or on produce-rent basis. The inherent advantages of the bhag system in certain local areas are leading to the increase of share-tenancy.

(5) The lower middle classes and even the higher grades among raiyats, influenced by western education in the school and urban allurements, leave the task of cultivation to "bhagchasis".

(6) The occupancy right being transferable, non-cultivating classes can and do take hold of the raiyati right and sublet the holdings thus acquired on a new basis, some on cash rent and others on produce rent. The opportunities for the increase of "bhag-bili" are thereby widened.

The reasons are not peculiar to West Bengal; they prevail, more or less, in all the districts of Bengal where small landlords and tenants of all grades including the raiyats let out lands in "bhag" or "thika". The system, perhaps, originated in the fact that people of the lower middle classes with small incomes wanted to have a ready means of livelihood; if bigger landlords let out in "bhag", they often do it for considerations to the "chasis" whose risks are less in such a system. The produce-paying cultivators, both in western and eastern Bengal, who pay a proportion of the produce that varies from locality to locality and according to agricultural circumstances, can be differentiated from the "dhankararidars" who enter into a contract for paying a fixed amount of produce and necessarily take all seasonal and cyclical risks.[1]

[1]Raiyats and under-raiyats at produce rents should not be mixed up with bargadars and bhagchasis who are generally not regarded as tenants. Proviso to section 3 of the Bengal Tenancy Act (inserted in 1928) states that "a person who under the system generally known as "adhi", "barga" or "bhag" cultivates the land of another person on condition of delivering a share of the produce to that person, is not a tenant, unless (1) such person has been expressly admitted to be a tenant by his landlord in any document executed by him, or (2) he has been or is held by a Civil Court to be a tenant."

The extent of the increase of produce-paying cultivators can, however, be gathered only from the Settlement Reports of the different districts.

In a bhag system the risks are distributed.

Q. 30. We have shown some of the causes of the increase of produce-sharing cultivators. Bargadars may not have statutory rights, but the customary practices are not inimical to them. The "bhagchasi" is ordinarily allowed to cultivate the same holding for years and even for generations, to build his house on it, and settle down as though he were sure of permanent occupancy. There are bargadars who execute kabuliyats for short terms. In process of time, some of them acquire the status of raiyats and under-raiyats. In Rangpur, "some of the adhiars have acquired the status of settled raiyats, some are non-occupancy raiyats, while others are under-raiyats." (Provincial Gazetteer, Rungpur District.) He is a sort of metayer tenant who cultivates land under jotedars or their derivatives, and pays rent in kind. Lands are often let out in "barga," as the system is found to be of mutual advantage to both the parties. In a "bhag system" the risks are distributed, and it is quite likely that people with small incomes prefer the bhag system as the land may not be burdened with a "protected interest" which often results in inefficient farming through lack of knowledge and resources of cultivators. Our Committee agrees that the transfer of occupancy rights to non-agriculturists is likely to help the spread of "bhagbili." If the purchasers of raiyati holdings let out in barga, it is to be accepted that "barga system" has inherent advantages.

Spread of barga depends on various factors.

The spread of the barga system generally depends on local factors; the factors which lead to the increase in one part of Bengal may bring about different results in another part. It is difficult to dogmatise. The law of supply and demand of agricultural labour, the remunerative nature of agriculture, the energy and enterprise of the landlord, all are contributory factors in their own way.

Q. 31. The area held by the bargadar varies according to the condition of each bargadar and to the circumstances of each case.

It is true that many cultivators, besides possessing lands which they hold in their own raiyati and under-raiyati right, cultivate "bhag" lands. There are persons who take to "barga" only because they have not enough land of their own. Therefore, it may be said that, broadly speaking, bargadars do hold lands in raiyati and under-raiyati right.

"Occupancy right" of the Bengal Tenancy Act should not be extended to bargadars.

Q. 32. We have already observed that the "occupancy right," as interpreted by the Bengal Tenancy Act, is extremely harmful for agriculture and also for agriculturists. The real occupancy right in agricultural land should mean that so long as the raiyat cultivates land by his best exertions and pays his dues, he should be protected from eviction. The other occupancy rights relating to alienation of holdings, the manner of ejection by sale of the raiyati holdings defaulting payment of rent, etc. are all contributing to the decline of both cultivation and cultivators. The concept of relief or protection to cultivators should be more scientific than the one evidenced in the provisions of the Tenancy Act. Accordingly, our Committee does not, and cannot, favour the extension of "the occupancy right," as we find in the Bengal Tenancy Act, to bargadars. But it is at the same time true that the cultivators who are being given the right of cultivation on a share basis should not be disturbed at the indiscreet whims of any party. So long as bargadars agree to have the lands on the share basis, as determined by law or custom as the case may be, and show their responsibilities by proper cultivation and payment of the definite share allotted to the landlord under the form of supervision and direction, as given out in any written lease or unwritten customs, they should not be evicted only for the sake of bringing in new cultivators. In fact, it is not in the interest of landlords to take recourse to reckless evictions, nor do they do so.

Steps necessary for the protection of bargadars.

To ensure protection, (1) the division of share to each party may have legislative definition, (2) the terms whereunder the barga system is resorted to may be mentioned in written leases, (3) the exactions of landlords in any other form may be prohibited, (4) the specific performance of duties by the bargadar will be insisted upon, and on that will rest his rights, consistent with good agriculture. In a share-tenancy system, the shares will vary according as landlords agree to undertake greater or less responsibilities in the matter of supervision and direction of farms and assistance to farmers. This principle is accepted even in progressive Europe, and the incidents of occupancy right, as we find under the provisions of the Bengal Tenancy Act, do not exist in any post-war tenancy legislation of any part of Europe. Until modern times metayers in Europe had rarely written agreements. "A written title is the material for lawyers." In our country, as in Europe, the form of share-tenancy, though running from year to year, is little disturbed, and many share-tenants have been holding lands for generations, unless they have willingly travelled to industrial centres

or adopted other forms of occupation. Tenants know that "a written agreement can be far more easily thrown out than a purely customary title." A share tenant is "attached not only to his land but to the things which grow on it." But if bargadars demand a written lease, renewable from year to year, on specific performance of the terms stipulated therein, they may be satisfied "to ensure improved husbandry from their side."

The advantages of the barga system.

Q. 33. The barga system, or to put it in the language of agricultural economics, share-tenancy, has manifold economic advantages, some of which may be briefly mentioned—

(1) Share-tenancy is definitely useful to cultivators in so far as their risk is less than in cash-tenancy. "The thought of paying a fixed rent, whether the crop is large or small and whether the prices are high or low, is not attractive to the farmer."

(2) In a country where most of the cultivators have little wealth, a share of the product is of great help to them in case of crop failure.

(3) In a share-tenancy, payment of rent is more assured. The collection of rent becomes easier. The raiyats will give the landlord his share of the farm products much more cheerfully than pay him cash.

(4) Share-tenancy brings both landlords and raiyats into working partnership. The landlord is willing to exert and direct, help and take risk, because in that case there will be larger products which mean larger profits.

(5) The share rent adjusts itself to changes in the value of the products without any change in the contract. In a cash rent a tenant may be paying a usurious rate of rent; he may have miscalculation in fixing the amount of rent; and his payment will be dependant on better prices realised for the produce.

Share rent versus cash rent.

But it is true that in a cash-tenancy the cultivator gets the advantage of an extra large crop; he exerts himself in a cash-tenancy more because he knows that after payment of the fixed rent, he will enjoy the rest. In our country, where agriculture is dependant on precarious rainfall, and the raiyat lives on the margin of subsistence and has little reserve capital, share-tenancy offers better economic advantages, especially when under this system the participation of the interest of landlord in the work of cultivation and farm management shall have to be living and more direct and intimate. This is a matter of supreme importance in adhering to the share system, especially in a

scheme of private landlordism. It is only where raiyats are men of considerable wealth, can stand losses from time to time, are capable farmers and do not require the direction and supervision of landlord, that it is better for them to pay fixed rents.

Share-tenancy is more common than cash-tenancy in the United States. In South and West France, metayage system is popular. Mazzadria is a popular type of share-tenancy in Italy which covers more than one-third of agricultural land in the country. Share-tenancy is getting popular everywhere and is peculiarly suitable to our country. When a holding is tenanted on payment of a fixed rent, the landlord, in process of time, tends to lose interest in land except in rents thereof; that is very harmful for agriculture. In a share-tenancy, landlord is a joint manager with the tenant. There is less risk for the cultivator; the collection of rent becomes an easier matter. All these advantages cannot and should not be whittled down under the plea of clothing raiyats with more positive rights. In determining the form of tenure, it is to be found out which form would be suitable to agriculture. The mere fact that a cash paying raiyat will have greater rights should not drive out all other relevant considerations. If it is granted, as is generally complained of, that in a share-tenancy the landlord will have the advantage of asking for more, it may equally be said that the cultivator has greater opportunities of evading and avoiding payment of the adequate and stipulated share. Exaction on the one side can be met by cunningness and deceit on the other, and all this creates very unfavourable atmosphere for the growth of an ideal tenure. Mutual trust is the basis of an ideal land tenure. It may be necessary that the limit of the share of produce for each party under different forms of contract may be statutorily determined and a common standard of measurement recommended. The rights of bargadars necessary for the observance of the rules of good husbandry should be safeguarded.

Our Committee is, therefore, not in favour of preventing the extension of the barga system in the ultimate interest of agriculture and agriculturists.

Q. 34. The occupancy right, as sought to be extended to bargadars, needs definition. If it is proposed to clothe bargadars with all the incidents of occupancy right, as found in the Bengal Tenancy Act, it will throw Bengal's agriculture into "a pit of abysmal depth" wherefrom the rescue of agriculture will be out of the question. A bargadar, converted into a "protected tenant," may continue subletting and transferring his holding, and at the same time he will have no "risk of eviction" without his holding being brought to sale under a Civil Court decree; that will make an impossible situation for any system

to function. We do not know if all this is interpreted by any well-wisher of the tenant as affording the desired and necessary protection to the bargadar.

Barga system, clothed with occupancy right, will complicate land system.

It is quite likely that in the event of such an attempt the barga system will be substituted for by a system of cultivation by hired agricultural labourers. But this can only be done by capitalist landlords; tenants with small incomes may find the system of cultivation by hired labourers not practicable within their means. The barga system, if protected by all the incidents of occupancy right, will also neutralise the rights of the superior tenants and help the complication of the already complicated land system to an incredible extent. If bargadars are clothed with occupancy rights, it is not unlikely that landlords will prefer cultivation by hired labourers. They may keep more lands in their direct possession, but there is hardly any chance of increased unemployment of bargadars; the result will be that more bargadars will be turned into agricultural labourers. This will act as a check to the spread of the barga system which will not be salutary under the existing state of things.

Various kinds of bhag jote in Bengal.

Q. 35. To find out a fair proportion payable by bargadars is a difficult and delicate task. In Bengal, there are various kinds of bhag jote, such as—

(1) Ardua-bhag jote—when produce is equally divided.

(2) Thika or Dhan Thika—when the sub-tenant contracts to supply a fixed amount of produce taking all risks and bearing all expenses of cultivation.

(3) Hal-krishi-krishani—in which the cultivator is a mere labourer who does the work, receives one-third of the outturn, the tenant supplying seed.

(4) Atharabaisa jote—in which the under-tenant gets eighteen-forty-eighths of the produce but does all the work of cultivation and supplies seed, etc.

(5) Panch-ardha jote—in which the under-tenant gets three-fifths of the produce doing all the work and supplying seed.

There are also other forms of bhag jote. In the Bankura district, no less than 11 per cent. of the total area of settled raiyats is held on "sanja," the rent consisting of a fixed amount of the produce irrespective of yield. "Sanja" is generally equivalent to one-third of the

crop in a normal year, and it has to be paid in good and bad years alike.

Our Committee is recounting all this to show that different proportions prevail in Bengal, and they are partly determined by the kind of services offered and received, and partly by customs in different districts. The methods of letting land on shares are bound to be varied, and even if scientific principles in disregard of customs are attempted to be introduced, the variation of shares cannot be avoided. Share-tenancies, under scientific principles, should vary with respect to (1) the equipment and supplies furnished by each party, (2) the degree of control exercised and the forms of work rendered by each party. Accordingly, the proportion of the product received by each party varies.[1] The different proportions are, therefore, to be determined with reference to the kind of control and service and there can be no such hard and fast fixation of the proportion, although half-and-half system is generally popular, and accepted in ordinary cases as representing the fair proportion. The maximum limit may be two-thirds (that is, landlord leaving one-third to the tenant).

Wages vary from district to district.

Q. 36. The wages[2] of agricultural labourers vary from district to district. The Bengal Census Report gives the following, indicating the average rate of daily wages of agricultural labourers in annas in 1925: Burdwan division 9·48 (although in Burdwan it is 11, and in Howrah and Hooghly 12). Presidency division 9·75 (although in Jessore it is 12 and in Khulna 13); Rajshahi division 10·89 (although in Rajshahi it is 15, in Pabna 13 and in Jalpaiguri 12); Dacca division it is 12·51; and Chittagong division it is 10·69 (although in Chittagong it is 13 and in Chittagong Hill districts 16).

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[1] In the United States there is the one-fourth system (that is, when one-fourth of the product is the landlord's share) where the tenant usually furnishes all the equipment and seeds; the one-third system whereunder the landlord usually controls in detail the kind of crops to be grown on each field; the two-fifths system, the one-third system and the half-and-half system. For details, vide Henry C. Taylor's "Outlines of Agricultural Economics", pages 344-357. In Italy there are "terzieria" (landlord taking two-thirds of the crops), "tirare avanti" (where the owner gets into partnership with a "contadino", and after receiving 25 per cent. of the produce to himself as rent, he halves the remainder with the partner and becomes responsible for the provision of machinery, drainage and loan of money without interest needed for the year's working), over and above "mazzadria" (sharing with the matayer equally or in some other proportion).

[2] Economists draw a distinction between nominal and real wages. By "nominal" or money wages is meant the actual cash which a man earns for a period of time; by "real" wages is meant the quantity of goods which a man can buy with his money wages. In making comparisons, "real" wages should be taken. The nominal wages of agricultural labour rose from 105 in 1895 to 189 in 1912; and real wages from 103 to 138 during the same period. (*Vide* Second Wages Census of Bengal, April, 1911). These wages figures make no allowance for the fact that agricultural labour cannot be employed continuously throughout the year. The rise of "nominal" wages has not been so great as the rise in prices. Hence, "real" wages has fallen.

No comparison on uncertain data.

It is difficult to compare the economic position of an agricultural labourer with that of a bargadar and an under-raiyat unless other things, which are unknown in the present case, can be had. We do not know how many days will be taken as working days for an agricultural labourer, and if his subsidiary income will be taken. A bargadar and an under-raiyat will have variable income due to the nature of crop raised, the extent of holdings cultivated, and the productivity of the land concerned. If an agricultural labourer does not starve for work and a bargadar and an under-raiyat are fastened with uneconomic holdings which are not double-cropped and do not yield such crop as jute and tobacco, the agricultural labourer will certainly be better placed. The economic position of the two parties, when so many factors are unknown, can hardly be compared. But our general impression is that an agricultural labourer may have more freedom, and need not stick to his holding however uneconomic, like a limpet, but a bargadar and an under-raiyat, given an economic holding in an average fertile district, are far more better placed. But generally, our peasants are bound up with small and uneconomic holdings, and compared to their desperate position, an agricultural labourer has a better living. Our Committee, however, does not pretend to come to any definite conclusion on uncertain data.

Q. 37. The unrestricted right of transfer of holdings by an occupancy raiyat is at variance with the ideals of good land tenure. It is condemned by the best authorities on land economics; it is restricted by the progressive tenancy legislations in modern Europe. In any experiment of the land system, the economic holding cannot be sublet, nor can it be subdivided; it can be sold to one who intends to settle on the land for the manifest purpose of cultivation. The restrictions on mortgage and sale are conceived with an eye to agriculture. The ideal has found ready acceptance in the latest land experiments of the West.

The harmful effect of unrestricted right of transfer.

"A true peasant is he who wants to remain a peasant." It is not helping a peasant when opportunities for ceasing to be a peasant are thrown open to him. Our Committee has noticed that the granting of unrestricted right of transfer has been claimed, and in fact it has been conceded to raiyats endowed with occupancy rights by Government, as a measure for the protection and welfare of raiyats. This new concept of relief to raiyats has never been appreciated by our Committee. It is genuine relief when concessions are granted by Government to raiyats for better performance of their rights and obligations. We do not know how "raiyats" are benefited if they are helped to

convert themselves into non-cultivators or to degenerate themselves into an inferior position. That is what the unrestricted right of transfer seeks to bring about. It may be a relief to the outgoing raiyat but not to the raiyat who wants to carry on the task of cultivation without degenerating his status. The "fatal gift of transferable rights" does only bring in outsiders to step into the shoes of ocupancy raiyats, or to degenerate the existing raiyats into under-raiyats, or to help the existing occupancy raiyats to play the role of petty landlords. To achieve all this in the name of doing good to raiyats in disregard of agricultural interests has confounded our Committee to a considerable extent. The doctrine of "free sale," which was warmly put forward in the nineteenth century, is now abandoned everywhere, primarily in the interest of agriculture, and accordingly, "the magic of property" and other similar arguments in favour of peasant proprietorship do not dominate modern thinking.

The views of Florence Nightingale and Field.

Miss Florence Nightingale,[1] a great friend of Bengal peasants, vehemently criticised the ideal of granting the right of transfer to raiyats and pertinently remarked: "To give the power of free sale to a people unaccustomed to such rights seems to be giving them the power of killing the goose which laid the golden eggs." In her opinion, the right of occupancy should be attached, not to the raiyat, but to the land. There should be, therefore, raiyati land. It would be interesting to recall the wise words of the Hon'ble Mr. Justice Field (*vide* his "Landholding"):

"It must not be supposed that legislation which merely adjusts the relations between the zamindars and the raiyats will be a final solution of the difficulties which exist in these provinces. The Bengali or Behari raiyat is a very different individual from the enfranchised serf of modern Europe. He is inclined to sloth, wanting in thrift and self-reliance, careful only of the present and regardless of the future. Let no one indulge in the delusion that an Act, even of the Legislative Council of India, will convert him into a French or Prussian, or Belgian peasant, industrious, frugal and provident. Even when the raiyat is protected from oppression, there is the danger that he will convert himself into a petty landlord and an oppressor of the worst kind."

The Famine Commission (1880) approached the question from another standpoint and observed that the gift of transferable rights by increasing the credit of the raiyats would encourage beyond measure the habit of borrowing and more improvident modes of living;

[1] A paper, "The Dumb Shall Speak and the Deaf Shall Hear," read by Miss Florence Nightingle on 1st June, 1883, under the presidency of the Right Hon'ble Sir Bartle Frere, Bart., at the East India Association, London.

in fact, tenants with occupancy rights are more indebted than tenants-at-will. Debt follows credit, and raiyats with greater rights invite more easy money and get ensnared in debts.

Free right of transfer criticised.

Our Committee is definitely of opinion that the right of transfer, at first allowed by custom, then followed by law in a restricted form, and recently sanctioned by legislation without any kind of restriction whatsoever, has led (1) to the transfer of raiyati lands to non-agriculturists, and (2) to the prejudice of the interests of agriculturists and agriculture. Our Committee is in favour of restricting the rights of occupancy raiyats to resident and cultivating raiyats, a position which we have explained elsewhere in this memorandum, and accordingly, it is only those who are and intend to be cultivators should have access to the raiyati land. This restriction of alienation is being favoured by agronomists and followed in all progressive legislations, and we do not know what is exactly meant by the question, "Is this practicable"? Even if practical difficulties are experienced, they do not extinguish the need of reforming tenancy legislations on approved lines within the framework of the prevailing land system.

Difficulties of determining the size of an economic holding.

Q. 38. To determine the size of an economic holding presents many difficulties, as it is dependent on so many factors. The minimum size of a holding shall have to be ascertained with reference to a given stage of industrial and agricultural progress. Land forms the basis of agricultural production. Land varies greatly in economic capacity; it varies in its economic efficiency. Capacity and efficiency[1] are the two "dimensions of production." Efficiency is measured in terms of output per unit of "input," whereas capacity is measured in terms of input per acre of land. "If one would compare the productivity of two pieces of land it is not enough to know how much corn or other crop it will yield per acre; it is necessary to know the expense of the operation (the input) and the product per unit of expense. A piece of land might yield a large product per acre and yet class as relatively poor land because of the great expense of production." Moreover, the variation in economic productivity of land, or in its value-producing power, is due not only to the differences in topography, soil and climate but to the differences in the character of the people cultivating the land and to the differences in the distances from the markets at which the products of land are sold.

[1]"The capacity of a given area of land is measured in terms of the number of units of labour and capital which can be associated with it with optimum results at a given stage of industrial progress. The economic efficiency of land is measured in terms of the value of the product per unit of labour and capital expended upon it."—Henry C. Taylor in his "Outlines of Agricultural Economics," pp. 96-97.

However, in determining an economic holding,[1] we propose to distinguish it from a subsistence holding. The size of an economic unit will depend on bringing into maximum play the factors of production. A pair of bullocks (unimproved) and a plough (unimproved) can, with the requisite depth of tillage, have full play in a given area of four bighas having double crops. The cultivating family consisting of five members will have at least two or three working male members. If the given area of four bighas of land is situated in a dry condition and not assured of a regular supply of water, it will be found that in case of a well being set up for watering purposes, one or two hired agricultural labourers may be required till the period of harvesting.

Factors determining the size of an economic holding.

In finding out the size of an economic holding we shall have to see that the labours of the human and cattle units do not run to waste for any determinate period of the year. Land shall have to bear two crops a year. If crop varieties in different plots may be found suitable, the economic unit will expand into 8 to 10 bighas, the same as the unit of the subsistence holding. In Bengal, paddy and jute cover 24 million acres out of 28 million cultivated acres. Jute-growing land may have potato as an economic crop during the period from November to March. Jute is a very exhausting crop, and it will be in the interest of soil if it can be arranged that jute and "aus" paddy will be grown in alternate years. There are three main varieties of rice: (1) Aus is planted in April or May and reaped in July and September. It is a shallow water rice which must be reaped before the flood where this exceeds 2 feet. (2) Aman rice is sown in May and reaped in November and December. It is a deep water rice and when transplanted, it must be established before the flood. (3) Boro rice is sown after the flood in October and reaped in April and May and is usually transplanted (*vide* "Encyclopædia of Scientific Agriculture," edited by H. Hunter).

In an "aus" land, different crops such as potato, tobacco and others may be got. That will require liberal additions of manures to the soil. The difficulty is with "aman" lands, which cover the major portion of rice lands in Bengal. From experiments it shall have to be

[1]If an economic holding is defined as a holding which allows a cultivator a chance of producing sufficient to support himself and his family in reasonable comfort after paying his necessary expenses, the borderline between economic holding and subsistence holding vanishes. Situated as we are, there are advantages in emphasising the distinction between economic unit and subsistence unit. If an attempt is made to utilise the economic unit to give the optimum results by introducing a number of successive crops, diversification of crops and other economic ways, the size of the economic unit will increase. The economic unit may then be 8 or 10 bighas. Economic unit is to be determined, at the given stage of progress, by the play of the factors of production, and subsistence unit will be ascertained after taking into consideration many monetary and non-monetary factors.

found out if the quick growth of wheat, linseed, gram, etc., could be had within the period of mid-December to April after artificial manuring.

Our Committee is concentrating its attention on all this because in determining an economic unit we shall have to see that the factors of production, applied thereto, do not stay idle for any length of time. Hence, attention to manuring and making lands double-cropped is essential. It is only 9·8 per cent. of the cultivated area of Bengal which is cropped more than once. The consequential result is wastage of human and cattle units. Mr. J. C. Jack in his study of the economic life of the district of Faridpur says: "The time-table of the cultivator, when his land is unfit for jute, shows three months' hard work and nine months' idleness; if he grows jute as well as rice, he will have an additional six weeks' work in July and August. These are not conditions of which he can reasonably complain."[1] What is, therefore, really to be desired is a larger product per man. Where the product per man is large, there is a high standard of living and high state of well-being for the average man. Where nearly all the cultivable land is under cultivation, large product per man can only be secured by increasing the product per acre. There are generally two methods of increasing the productivity of each acre of land in use: (1) the growing of more productive crops, (2) the more intensive cultivation[2] of each crop.

Productivity of land to be increased.

Our country is peculiarly situated, our population is likely to increase rapidly for a good many years to come, but our supply of land is limited. It is obvious that the present average rate of production per head cannot be increased or even maintained at the present level except by increasing the average productivity of land. In doing so, two obstacles are to be overcome: (1) tendency of the soil to decline in fertility as large and larger supplies of food are extracted from it, (2) the law of diminishing return.

Our Committee is, therefore, in favour of rigidly fixing the size of an economic unit which should not be disturbed under any plea. To get the best use of the economic unit requires rotation of crops, diversification of crops, and increasing the fertility or checking the

[1]The cultivator's time-table is discussed in full by Mr. Jack in Chapter 1 of the book referred to.

[2]Intensive farming, in strict sense, may mean any or all of the following methods: the application of more labour in the preparation of the soil and the handling of the crop; the use of more capital in connection with a given area of land and a given quantity of labour, thus enabling the same labour to prepare the soil more thoroughly and care for the crops more efficiently; the application of more scientific methods to improvement and maintenance of the fertility of the soil.

exhaustion of land. The major portion of the area of Bengal has been under plough for centuries. The inundated area of Bengal receives no doubt annually a deposit of silt which adds to the fertility of future years, but in those areas where silts are not annually deposited, the basic minimum of production has been reached. The primary question is, therefore, one of raising the fertility of the soil. The questions of improved plough, deeper cultivation, rotation of crops are all related to this.

Accordingly, under given conditions of production, the economic holding may be taken roughly at four bighas. It may be increased. A family should possess two to four economic units (that is, roughly 3 to 5 acres) for his subsistence. The minimum subsistence holding is generally accepted by Jack and others at 3 acres. The number of units required for the subsistence of a cultivating family at a reasonable standard can only be determined by reference to price mechanism, the amount of production, the condition of supply and other monetary and non-monetary factors.

The evils of fragmented holdings.

Q. 39. It is true that the size of many raiyati holdings is uneconomic. The law of average in these matters is very deceptive. Those who have more than subsistence holdings are in comfort; those who have not are a menace to agriculture. The average may lead us on to the wrong track. The Settlement Reports, the majority of them relating to the first quarter of the present century, give sufficient indications as to the subdivision of holdings, and since then, many holdings have undergone further fragmentation. Accordingly, we should not go by the law of averages or by the records of old Settlement Reports. The size of an average raiyati holding on the basis of Settlement Report figures comes to nearly 2 acres, but many of them have undoubtedly less than the average, and there the evil works out its mischief and brings about the decline of agriculture.

Raiyats do not have economic holdings.

If three acres form the subsistence holding, and four bighas the economic unit beyond which it should not be fragmented, it will be found that many of the raiyats have not the requisite units.[1] One may possess more than 3 acres, subdivided into uneconomic plots. That worsens the situation. Many of them have less than 3 acres fragmented into uneconomic plots, that seals the doom of agriculture

[1] "In a village in Murshidabad district I found the average size of holdings to be 10 cottahs, i.e., ·20 acre; but these are widely scattered, sometimes separated by a distance of 2 to 3 miles. The size of the smallest plot is 2 cottahs, i.e., ·04 acre." Dr. Radha Kamal Mukherjee in his "Rural Economy of India", published in 1926, pp. 51-52.

and agriculturists. In Bengal, such a menacing situation is growing with devastating effects on agriculture.[1]

The reasons of fragmentation of holdings.

It is undoubtedly true that the inheritance laws, the statutory right of transfer by the occupancy raiyat, and the increase of population tend to fragmentation of holdings. The break up of the joint family and the importation of individualistic notions of property are no less responsible for division of holdings beyond economic units. But the chief blame must be shared by the imperfectly conceived Tenancy Act which at present allows subdivision of holdings to a unit carrying rent of one rupee (section 88 as amended in 1938). That is tantamount to permitting subdivision of holding to one bigha. It illustrates that either Government is insensible of the evils of fragmentation beyond economic limits, or that Government considers the one bigha holding as a desirable unit. If the Tenancy Act would have stopped the subdivision beyond four or five bighas, all the forces tending to fragmentation would not have received full play, and the decline of agriculture would not have been so assured. The laws of inheritance subdivide only the shares of holding; the Tenancy Act could have preserved the economic unit without disturbing the laws of inheritance.

The case for consolidation of holdings.

Q. 40. Consolidation of uneconomic holdings into economic units is necessary and desirable. Our Committee is not in favour of consolidating large areas into a compact holding. The holdings being dispersed have a great advantage in our country, because the deficiency or an irregular distribution of rainfall may destroy one crop, while there may be favourable returns from other fields. If we are not going in for mechanical cultivation, the dispersion of fields (without being uneconomic) with diversification of crops[2] will be suitable to our country.

In the matter of consolidation of uneconomic holdings, two things are to be noted: (1) the future deterioration of holdings beyond economic level, (2) the tackling of the existing uneconomic units. The future deterioration can be stopped by a provision in the Tenancy Act that the subdivision of holdings beyond a specified size, which will be

[1]Uneconomic holdings involve wastage of all the factors of production, destroy enterprise, involve loss of land owing to boundaries; they lower the standard of living, bring about chronic unemployment, breed inefficient labour.

[2]The diversification of crops has the following advantages: (1) Every crop has its enemies and these tend to multiply if the land is continually planted with the same crop. By changing the crop, the special enemies of each crop is held in check, even if they are not starved out altogether. (2) Different crops extract the different elements of plant from the soil in different proportion. A wise diversification of crop tends to exhaust the soil less rapidly. (3) Different crops require labour and attention at different times of the year. *Vide* T. N. Carver's "Principles of Rural Economics."

ascertained as an economic unit, should not be allowed. This will invite one complexity, that is, numerous persons may have claims on a particular holding. This multiplicity of claims may discourage the play of the human factor of production. Such a contingency arising, it is generally found that the surplus members having shares will be diverted elsewhere, either to the industrial centres or to some other occupation. It is no solution if a cultivator is provided with an uneconomic holding; in that case, he turns out to be a contributory cause of social unrest and disaster. "The very rights which the cultivator has in his land and which have been secured for him by special tenancy legislation make the cultivator stick like a limpet to his petty holding and prevent him from going in search of work in industrial centres except in the last extremity." In Europe, the practice of preferred heir system is being encouraged. The custom is being advocated to leave the property to a single heir who gradually pays off the charge paid on it by the father for the benefit of the other heirs. If he finds the property unprofitable, he sells it undivided; thus the size of the holding does not diminish.[1]

Economic holdings brought about by voluntary effort or legislative enactment.

Secondly, uneconomic units may be consolidated into economic levels by voluntary effort or by legislative enactment. In the Punjab, co-operative consolidation by consent has been effected. The first society was started in 1921, and in 1931 we find 500 societies with 48,000 members and during the period 336,000 acres have been consolidated at a cost of Rs. 2-5 per acre, the whole cost being borne by Government.[2] In 1929-30 the acreage consolidated amounted to 50,105 and the average size in block of the 7·651 owners was increased

[1]In Germany the practice among the peasants of succession to undivided properties by the creation of a preferred heir is encouraged by law. In Prussia, only one heir is to succeed to the family holding under a new law in 1924. In Denmark, the reconstituted small holdings can be sold but not subdivided, and the owner is to determine which child shall succeed and the other children are to be compensated. The Russian Agrarian Code, 1922, removes land from the sphere of buying and selling and forbids sale or gift or mortgage of the land. In small holdings movement and in peasant proprietorship brought about by compensation, it is arranged that the small holdings should not be subdivided; they can be sold. In France where the division of property is among all sons, "the population has not grown in order that the holdings might not be subdivided." The higher standard of living discourages population.

[2]"Societies generally cease to function as soon as the consolidation is completed. The fundamental weakness of the system, from the viewpoint of co-operative principles, is that the whole cost of consolidation, of which surveying is responsible for a considerable part, has been borne by the Government, the Registrar for the Punjab remarking that people nowhere seem sufficiently keen for consolidation to pay for it. Unanimous consent to the decision by all participants in the scheme is always required to avoid possible future disputes, although a Punjab bye-law, never invoked, would permit the majority to compel the minority by their votes to accept the lots offered them by the surveyor. A similar optional provision appears in the Consolidation of Holdings Act in the Central Provinces, which, however, applies to one division only"—Eleanor M. Hough in "The Co-operative Movement in India," published in 1932, p. 185.

from 0·51 to 2·9 acres. As a result of consolidation, no less than 993 new wells were sunk in the Punjab in that year, 5,206 acres brought under cultivation and 3,193 acres irrigated for the first time. Section 58A of the Punjab Tenancy Act of 1887, as amended in 1927, provides as follows: "(1) Any tenant with a right of occupancy may, with the consent of his landlord, transfer his land to all the members of a Co-operative Society for the consolidation of holdings of which both he and his landlord are members and obtain from them any other land in exchange. (2) Notwithstanding anything contained in this Act or any other enactment in force any land obtained in exchange in pursuance of sub-section (1) shall be deemed to be subject to the same right of occupancy as the land given in exchange."[1]

"Restripping" in foreign countries.

There are legislative enactments for "restripping" of land. In Japan law permits a certain majority of owners in a village to apply for forcible allotment and restripping of the land, each man receiving a consolidated block in one or two places, approximately equivalent in area and value to the fields surrendered by him. The law provides also for the construction of roads and canals. In Europe there are legislations which compel villagers to accept restripment when a majority desires it.

Consolidation by voluntary effort in Bengal.

In Bengal, the task is to be undertaken within the framework of the zamindari system. It can only be introduced by voluntary efforts without disturbing in any way the rights of landlords. A particular area under a particular landlord can have the advantages of consolidation if the rights of landlords are duly protected. The methods adopted in the Punjab with suitable variations, incidental to the zamindari system, may be tried with the utmost caution in Bengal on strictly co-operative lines. Accordingly, the details of the Punjab scheme of consolidation are put down to fashion our line of reform. Legislative enforcement is unsuitable for a permanently settled province like Bengal. It is true that consolidation of holdings may reveal that

[1]The actual procedure of a co-operative consolidation of holdings society is that all persons who have a right in lands in the area affected agree to throw all their holdings into one joint holding, embracing them all and then to re-divide it according to their previous rights allotting to each other suitable blocks of land without the former evil of dispersal. There are thus two mutations effected in the revenue papers, though in practice both of them are entered, signed and approved at a single moment on the conclusion of the proceedings, when every member of the society has accepted the new holding which is being allotted to him by the society. The occupancy tenant thereby ceases to be a tenant under his original landlord, and becomes a tenant under the entire proprietary body. He then takes a new plot equal in area but different in locality from his former plot under his original landlord. Legally he has made two exchanges and clause 2 of section 58A protects him from any loss of right in consequence of this transfer. (Taken from Om Prakash Agarwala's annotated edition of the Punjab Tenancy Act.)

there is a great surplus of agricultural labour, a portion of which may be employed in the land by improved methods of cultivation with successive number of crops which will necessitate more men for minute and patient attention, and the rest to be absorbed either in the village occupation and small scale industries or factories and mills started anew in the neighbouring towns to give a fillip to, and to keep pace with, agricultural prosperity set in by better farming. New economic forces are expected to bring in new conditions for adjustment: the fear of surplus agricultural labour should not extinguish our efforts for improving the ways and methods of agriculture in the country.

Consolidation requires a new record-of-rights.

Q. 41. We have discussed the difficulties of consolidation of holdings, the more so when the province is permanently settled and the landlord made proprietor. In a particular area under a particular landlord the work of consolidation may be carried on with the consent of the landlord on co-operative lines without prejudice to his interests. Subject to the rights of landlords, facilities should be provided for the work of consolidation; whether they will take the form of exchange, or purchase, or any other method, depends on the plan to be pursued. But consolidation will necessitate a new record-of-rights. The existing record-of-rights, prepared at an enormous cost paid by landlords and tenants, will thus be rendered useless. In the Punjab, the surveying work and other costs are borne by Government; it involves a departure from the co-operative principles, because raiyats should, in strict theory, bear their portion of expenses collectively. However, the expenses of new survey and settlement, incidental to consolidation, cannot and should not be imposed on landlords; it will be a matter for the State to decide if they will be met by Government or by raiyats. All this emphasises the difficulties of the work of consolidation and stresses the urgency of adopting measures to guard against the degeneration of holding beyond the economic level. The objects of the work of consolidation, if carried under the handicap of the difficulties pointed out, will be frustrated unless the complementary measures for prevention of the future fragmentation of holdings beyond economic level are adopted.

The permissive Act in Baroda.

The provisions of a permissive Act in Baroda for the consolidation of agricultural holdings, passed in 1920, are worthy of study in this connection:[1] (1) It cannot be made applicable to a village excepting when two-thirds of its total "khatedars," who are the holders of not less than half of its total land, desire to have it applied to their

[1]Vide Radha Kamal Mukherjee's "Land Problems of India," p. 63.

village. (2) After readjustment, the reconstituted holding, which will be the economic holding, should be regarded as indivisible. The right of pre-emption should be made applicable to the economic cultivating unit. (3) The economic holding will be held by the head of the family as family property and regarded as impartible and exempt from seizure for debt. (4) On his death, a preferred heir should succeed to the undivided economic cultivation unit and compensate the other heirs according to the agricultural profitableness of the farm and not its price in the land market. The German practice of the preferred heir system is followed.

The undesirability of having large areas under a raiyat.

Q. 42. The accumulation of large areas in an individual raiyat is always undesirable; that inevitably tends to lead to subletting and rack-renting. The lessons of agricultural economics dictate that a raiyat should not told more than he can cultivate by his labour (including that of his family members). It should also be seen that the holdings, occupied by him, can give him maintenance and other little necessaries on the average standard of life prevailing at that period in the given region. A raiyat who has generally no reserve capital for investment and scientific farming should not occupy more than 5 acres; if he does, he shall have to sublet, and that is likely to lead to rack-renting of the inferior raiyat. Moreover, the combination of two-fold functions in one man, cultivator in respect of a certain portion and landlord in respect of the rest, is very harmful for agriculture and complicates the land system itself. Legislative discouragement is the only way to prevent large areas from falling into the hands of one raiyat.

The reasons why capitalist farmers should have large areas.

If there are capitalist farmers or capitalists who intend to take to scientific farming, they should be allowed to get possession of large areas of land. They will invest money for better farming; cultivation by the aid of machines and artificial manures may give startling results which will tempt more capital in land; that is all to the good of the province. The economics of small holding may be suited for the country, but it will be an evil day if no room is thrown open for the investment of large capital in land for better farming which will effectively add to the riches of the country. Such capitalist farmers should rather be encouraged, and the landlords, who intend doing so, should be welcome as national assets. The Royal Commission of Agriculture in its report recommended that legal obstacles in the way of bigger landlords acquiring large areas "for the inauguration of improvements beyond the financial capacity of their tenants or

small holders," and for "the establishment of home farms and their management on modern scientific lines" or "the cultivation of special areas as seed farms for supplying the needs of their tenantry and the breeding and maintaining of pure line herds of stock" and for other welfare and business purposes, should be removed and replaced, where necessary, by "legislative encouragement." (*vide* para. 358). This has been recognised in the Agra Tenancy Act of 1926, under the provisions of which a landlord may apply to the Collector to acquire for him land held by an ex-proprietary or occupancy tenant for the purpose of farming on improved lines. The Bengal Tenancy Act is, however, travelling towards the opposite direction.

Coparcenary detrimental to cultivation.

Q. 43. It is true that coparcenary is detrimental to cultivation, the more so when many co-sharers have only small holdings to make their means of livelihood. The tendency of equal division among all sons is towards fragmentation of holdings beyond economic level. It is detrimental to cultivation, as the fragmented holdings involve wastage of both human and cattle units; they bring about a lower standard of living and inefficient agriculture. Moreover, too many co-sharers sticking to the holdings, which are not profitable, engender a sense of frustration in them, and thus the forces of discontent and disruption find nourishment from an extremely unscientific state of things.

How the evils can be minimised.

Without interfering with the laws of inheritance, the evil can be minimised by (1) creating economic units which can be sold but not divided, (2) introducing the practice of "preferred heir system" with compensation to the other co-sharers in the form of a sum of money or mortgage. Moreover, if it is found that the economic units cannot be disturbed by subdivision, it will be in the interest of a cultivator's family to settle mutually which child will succeed; and the other co-heirs will seek employment elsewhere or in other forms of work in the same village. In Bengal there is a demand for Bengalee labour in many spheres in the towns, and it is not likely that other avenues will be glutted within a very short time. The new economic forces, let loose by the new arrangement recommended, are likely to create new avenues for their absorption—an eventuality which is to be encouraged for the welfare of the province as a whole.

Q. 44. The evil effects of coparcenary and fragmentation in estates and tenures are not so pronounced. It is true that under our laws of inheritance estates are split up, and in the course of three generations, even big estates are partitioned into various small portions providing

livings for a good number of co-parcenars. This matter has no direct damaging economic effects on agriculture; it is, more or less, a social question: whether large estates will be maintained intact for providing a big common fund, to be distributed in accordance with the laws of inheritance. It is only in this connection that the question of primogeniture is raised, and that will amount to disturbing the laws of inheritance which our Committee does not approve.

Appointment of a common manager.

The appointment of a common manager is suggested as a way to avoid the injury to private rights arising from disputes among the proprietors of joint undivided estates. Regulation V of 1812 provided for the appointment of a common manager "to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estates." The history of the legislation on the subject of the appointment of a common manager is given in the Report of the Rent Law Commission. It may be true that the estates and tenures without being partitioned and under a common manager will give better returns for all the coparcenars. That is, however, a matter for mutual adjustment. The difficulties of availing of the device of appointing a common manager are dealt with in the reply to question 45.

The harmful effects of common agent under legislative compulsion.

Q. 45. It is a salutary canon that legislative interference should be made compulsory only when the welfare of the country as a whole calls for it. When it is a matter for particular individuals to decide which way their own interests will be served, any compulsion by legislation is unnecessary, and often disturbing. Moreover, any such compulsion may lead to mismanagement, as the officer, appointed by the co-sharer landlords under the threat of a legislation to arrange for the collection of rents, may take advantage of the disputes among co-parcenars with a view to become the real master of the situation. In the absence of legislative compulsion, the matter would be adjusted on mutual understanding which is far more valuable. If the co-parceners do not agree and go on causing injury to private rights and public convenience, the existing provisions of the Bengal Tenancy Act, regarding the appointment of a common manager, are sufficient for the purpose. If a common agent is forced upon the coparceners under the coercion of a legislative provision in the Tenancy Act, *it will not* be beneficial for raiyats for whom he will have little affection, and in whose welfare he will have less interest (perhaps except in realisation), nor will he be very valuable for the co-sharer landlords themselves, as his role will be that of a Receiver of the property without any real

interest in it. Our Committee is, therefore, not in favour of legislative compulsion in such matters.

Q. 46. We have shown that according to some authorities the assessment of the Permanent Settlement was Rs. 2·68 crores (exclusive of sayer) and according to others 2·85 crores. The figure 257 lakhs naturally seems puzzling, although it is not our intention here to test the accuracy of the sum specified. The first part of the question forms the hypothesis, and it is indeed true to say that the excessive assessment was expected to become moderate in process of time.

Permanent Settlement permitted enhancement of rents.

Our Committee is definitely of opinion that the Permanent Settlement Regulations did not shut out the zamindars from enhancing the rents of raiyats; it was, however, true that the zamindars were forbidden to enhance the rate of rent, if it is considered as equivalent to the pargana rate. The maximum rate was the pargana rate which was also variable, but it was the standard to be appealed to. The specified amount of rent calculated in money which prevailed at the time of the Settlement could be enhanced under the provisions of the Permanent Settlement Regulations.

Our Committee will gladly discuss the question of enhancement at some length in order to establish the point beyond any manner of doubt that the zamindar's right to enhance the rents of raiyats was inherent, and even explicit, in the Regulations of 1793 and in the explanatory legislations that followed. To explain the underlying principles of the pargana rate, our Committee will have to discuss how they have been worked out in the period anterior to the Permanent Settlement. It is a pet theory with some critics that the zamindar's right to enhance rents is not warrantable under the Regulations of 1793, and questions 47 to 50 have evidently been framed to establish that theory. The opinions expressed in the questions have no scientific basis.[1]

Measurement and revision of rates contemplated.

Clause 2, section 60 of Regulation VIII of 1793 provides: "No actual proprietor of land, or farmer or person acting under their authority shall cancel the pattas of the khudkasht raiyat except upon proof that they have been obtained by collusion; or that the rents paid by them within the last three years have been reduced below the rate of the nirikbandi of the pargana; or that they have obtained collusive deductions; or upon a general measurement of the pargana for the purpose of equalising and correcting the assessment."

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[1] "Scientific method sweeps aside our wishes and endeavours to arrive at opinions in which wishes play no part"—Bertrand Russel in "The Scientific Outlook."

The above section definitely argues in favour of a measurement and revision of rent rates, as would bring those rates into accord with the value, for the time being, of the zamindar's share of the produce. The maintenance of patwaris which was imposed on proprietors by Regulation VIII of 1793 was evidently for the manifest purpose of keeping accounts relating to the lands, produce, collections and charges. Field in his "Landholding" (p. 551) observes that where rent was payable in money (as was in Bengal proper), there was no use in keeping an account of the "produce"[1] for the assessment of the revenue; and the natural conclusion is that it was kept for the purpose of assessing the rent. This view is supported by section 62 of Regulation VIII of 1793 which expressly states that the rules prescribed regarding patwaris were framed also to "facilitate the decision of suits in the Courts of Judicature between proprietors and farmers of lands and persons paying rent or revenue to them." The duties of Kanungo were framed on similar lines.

What the "pargana rate" means.

The next matter that is referred to by section 60 of Regulation VIII of 1793 is the pargana rate. The Permanent Settlement Regulations clearly provide that raiyats are liable to pay rent at the established rate. This established rate is the pargana rate. The expression "pargana rate" shows that the rate of rent is variable in different districts, and that its variability is traceable to its relation to gross produce. It is the rate and not the rent referred to. The difficulty of determining the pargana rate is undoubtedly great. The pargana rate, by its very nature, is bound to become uncertain; and in fact section 5 of Regulation V of 1812 declared "that the pargana rates are in many instances become very uncertain." Section 7 of that Regulation explained the point further by stating that "the collections shall be made according to the rate for land of a similar description in places adjacent."

In June, 1789, Mr. Shore wrote that the qualities of the soil and the nature of the produce suggested the different rates of rent and endorsed the observation of the Collector of Rajshahi that "the infinite varieties of soil, and the further variations of value from local circumstances are absolutely beyond the investigation or almost comprehension not merely of a Collector but of any man who has not made it the business of his life.....The regulation of the rents

[1]The words, "actual produce", were defined by section 8 of Regulation I of 1801 to mean the net annual rent (i.e., where rent was payable in money) or other net produce (i.e., where rent was payable in kind) receivable by the proprietor after deducting from the gross rent or other gross produce the expenses of collection and management.

of the raiyats is properly a transaction between the zamindar or landlord and his tenants, and not of the Government, and the detail attending it is so minute as to baffle the skill of any man not well versed in it."

It is well known that the rule of taking from the cultivator a share of the produce in kind and of making this share the ultimate standard for adjustment of a money rent, was an essential feature of the fiscal system of the Hindus. The Muhammadans, finding it akin to their system, allowed the Hindu method to remain. In the Ayeen-i-Akbari we find: "Some soils produce crops almost spontaneously, whilst the others require the greatest exertions of labour and skill. Much depends upon the vicinity or distance of water, and the neighbourhood of towns ought also to be a matter of consideration. So that it behoveth the officers of Government in their respective districts to attend to every one of those circumstances that the demands of the State may be fixed accordingly." Thus, the wisdom of variability of rates is recognised and accordingly the pargana rate, which was established, has all the elements of enhancement along with the increment of the value of produce, due to economic or non-economic reasons.

Pargana rate varies according to capabilities of land.

The principle of pargana rate is a recognition of the principle that "assessment should be fixed according to the value and capabilities of the land, and not according to produce." If the rent becomes a fixed portion of the produce, the different rates subsisting in different villages do not, and cannot, possibly arise. The pargana rate must take note of the various factors connected with the value and capabilities of land, such as, fertility of land, the denseness or otherwise of the population, the salubrity or inclemency of the climate, the abundance or scarcity of good culturable soil in the vicinity, the neighbourhood of market, the situational advantage, the benefits of good communications and so on. All this creates grades of difference in the value of land giving rise to different pargana rates. Accordingly, the ascertainment and determination of pargana rate requires minute and complicated examination, and in the fiscal machinery determining the pargana rate, the zamindars occupied the most distinguished place. Though the Ayeen-i-Akbari complimented the principle of fixing the rate of rent to the value of land, the difficulties of establishing different rates, in different districts after careful examination manifested themselves, and the Ayeen-i-Akbari admits the difficulties: "It was found very difficult to procure the current prices of grain from all parts of kingdom: and the delays that this occasioned in making the settlements were productive of many inconveniences. In order to remedy these evils His Majesty directed that a Settlement should be concluded

for ten years. For the above purpose, having found an aggregate of the rates of collection from the commencement of the fifteenth year of his reign to the twenty-fourth inclusive, they took a tenth part of that total as the annual rate for the ensuing ten years." Thus, individual village settlements were abandoned. The significance of such a step is pointed out by the Lieutenant Colonel Briggs in his work on "The Land Tax in India": "Thus it appears that at a very early period the scheme of Akbar to assess the field was discovered in practice to be full of embarrassment, and, before his measurement even was completed, he was reduced to the necessity of assessing whole villages, and leaving it to the people themselves to distribute the portion payable to individuals. This is one of the most instructive lessons we could have of the extreme difficulty of assessing land in any proportion which approaches to the full profit of the landlord."

Mr. Shore in his Minute of the 18th June 1789, speaks with special reference to Bengal: "In every district throughout Bengal where the license of exaction has not superseded all rules, the rents of the land are regulated by known rates called "nirik," and in some districts each village has its own. These rates are formed with respect to the produce of the land per bigha. Some soil produces two crops in a year of different species, some three. The more profitable articles such as the mulberry plant, betel leaf, tobacco, sugarcane and others render the value of the land proportionately great, these rates must have been fixed up on a measurement of the land, and the settlement of Toran (Todar) Mal may have formed the basis of them."

It is clear that individual assessments were made by landlords and those assessments formed the "nirik" which is variable and liable to enhancement. There was another difficulty of determining the pargana rate because the land of every village was divided into great many classes, according to its qualities fetching different rates of rent. To obviate this, the rate of rent paid by the greater number of raiyats goes to establish the pargana rate.

Lord Cornwallis on pargana rate and the deduction therefrom.

Whether the pargana rate prevailing in Bengal was equitable or whether the principle of pargana rate is itself scientific, these are questions which cannot be discussed at this stage. But it can be said that the pargana rate was in most places "fully equal to what the cultivator could afford to pay." Lord Cornwallis in his minute of February, 1790, clearly says: "whoever cultivates the land, the zamindars can receive no more than the established rent, which in most places is fully equal to what the cultivator can afford to pay. The rents of an estate can only be raised by inducing the raiyats to

cultivate the more valuable articles of produce and to clear the extensive tracts of waste land which are to be found in almost every zamindari in Bengal."

From the above statement we get the following information:—

(*a*) the established rent is what the cultivator can afford to pay;

(*b*) the rents can be raised if more valuable articles of produce are cultivated;

(*c*) the rents can be raised if waste lands are cultivated.

We have seen that the established rent rises along with the rise of the value of produce and, therefore, it is fully equal to what the cultivators can afford to pay. Mr. Justice Field explains the point when he says in reply to Mr. Mackenzie's note, dated 6th January, 1880 (in connection with the Rent Law Commission): "Under the former Government of the country the amount of revenue to be collected was settled by a periodical measurement and assessment—that the pargana rate originated in this measurement and assessment—that inasmuch as the assessment was based upon an average of prices for a period of years, it contained within itself an element of increase of rent as prices rose—that the early Regulations found this system in the country and did not interfere with it."

The view of Raja Rammohan Roy.

Raja Rammohan Roy, in his evidence before the Select Committee of the House of Commons in 1831, pointed out that "the different fields or plots of ground on an estate are classed into 1st, 2nd, 3rd and 4th quality, and certain rates per bigha are affixed to them respectively, agreeable to established rates in the district. These rates are considered as a standard in settling the rent to be paid by the cultivator." This significant statement is in accord with the principles of Akbar's assessment, and shows that the increase of rent is inherent in the above principles.

The term, "pargana rate", occurs in the Regulations of 1793, 1794 and 1799 in connection with khudkasht raiyats. It is held by one school of critics that (*a*) the pargana rate never meant anything, (*b*) it was a mere myth, (*c*) it was only another term for the zamindar's discretion or moderation, (*d*) even if the pargana rates existed in 1793, they had become wellnigh obsolete in 1812.[1]

[1]By section 6 of Regulation V of 1812 it was enacted that established pergana rates, where such existed, would determine the amount to be collected by Government officers and purchasers at sales for arrears of revenue but by section 7 it was enacted that in case in which no established rates of the pargana or local division of the country might be known, pattas would be granted and the collections made according to the rate payable for land of a similar description in the places adjacent.

Mr. Justice Trevor in the Great Rent Case, 1865, criticises the above view in the following manner:—"I cannot assent to the doctrine that the legislature in 1793 and the following years used terms without meaning, and directed the Court to settle disputes according to a rate which then had no existence. I must rather conclude that the terms which the legislature used to denote the rate which was to form the limit of the zamindar's demand represented something real and distinct at that period; and although in the shape of a pargana rate, the limit on the zamindar's demand had become by 1812, in some places, indistinct, still the limit existed in the shape of the rate which was payable for lands of a similar description in the places adjacent—a rate which is, in fact, the same thing with the pargana rate, under a different form—the customary rent deduced from the similar rate paid in places adjacent rather than from a rate current in the pargana."

Q. 47. In our previous answer our Committee has tried to show that revision of the rent-rates on the expiry of a lease was contemplated under the provisions of the Permanent Settlement Regulations. It is useless to attempt to trace the right principle during the last years of Moghul rule in Bengal. The only principle of action traceable throughout is a determination on the part of the Ruling Power to exact by means of arbitrary impost as much rent as possible from the zamindars or farmers of revenue as might be. Sir John Shore (Minute of June, 1789) remarked: "The mode of imposition was fundamentally ruinous both to the raiyats and zamindars; and its direct tendency was to force the latter into extortion, and all into fraud, concealment and distress."

Section 49 of Regulation VIII of 1793 provides for "mokararidars" and "istemrardars" who had (1) held at fixed rent for more than twelve years, or (2) contracted for payment at a fixed rent with the zamindar or actual proprietor. These two classes are not liable to be assessed with any increase.

Enhancement of rent in respect of simple khudkashts and paikashts.

The existing leases of khudkasht raiyats at the time of the Permanent Settlement who had no prescriptive rights were, with certain exceptions, specified in section 60 of Regulation VIII of 1793 to remain in force until the period of their expiry; and those raiyats were entitled to renewal of their leases at pargana rates; and on a sale for arrears of revenue such raiyats were entitled to a new Settlement at the pargana rates, and could be evicted only after declining to enter into agreement with the purchaser at the same rates. Should the rate in the engagement, cancelled by the sale, have been below that figure, they can only be evicted on refusing to renew at the pargana rates. It was also enacted by section 6 of Regulation IV of 1794 that "if a dispute arises between the raiyats and the persons from whom they may be entitled

to demand pattas regarding the rates of pattas, it should be determined in the Dewani Adawlut of the zillah in which the lands were situated according to the rates established in the pargana for lands of the same description and quality as those respecting which the dispute arose." As to paikasht raiyats they are nowhere expressly mentioned in the laws referring to Bengal.[1] If they held under pattas at the time of the Settlement, they were entitled to hold them till the expiry of the lease "under the comprehensive terms of clause 1, section 60, Regulation VIII of 1793, which included even them."

Period of leases.

The period for which leases to tenants could be granted by zamindars was restricted to ten years, renewable in the last year for another period of ten years (*vide* section 2, Regulation XLIV of 1793). This law remained in force till 1812 when by Regulation V of that year, section 2, the above restriction was taken away, and zamindars were declared competent to grant leases for any period which they might deem most convenient to themselves and tenants, and most convenient to the improvement of their estates. Some doubts arose on the construction of section 2 of the above Regulation and they were set at rest by Regulation XVIII of 1812 which explained that the true intent of section 2 of Regulation V of 1812 was to declare proprietors of land competent to grant leases for any period, even for perpetuity and at any rent, which they might deem conducive to their interests. By section 2 of Regulation VIII of 1819, it was declared that all leases and engagements for the fixing of the rent now in existence, that may have been granted or concluded for a term of years or in perpetuity, by a proprietor under engagement with Government, or other persons competent to grant the same, shall be deemed good and valid tenure, notwithstanding that the same may have been executed before the passing of Regulation V of 1812, and while the rule of section 2 of Regulation XLIV of 1793, above alluded to, was in full force and effect.

Thus the position came to this—

(1) The khudkashts were entitled to pattas at the pargana rates by the laws of 1793.

(2) Under section 6 of Regulation IV of 1794 the Courts were, in cases of disputes, to determine the rates of the pattas according to the pargana rates.

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[1]In section 10, Regulation II of 1795, which referred to Benares, they (paikasht raiyats) are expressly mentioned and declared to be equally entitled with khudkasht raiyats to have their pattas renewed at the established rates, provided the proprietor or farmer chooses to permit them to cultivate the land held by them, which they have the option to do, or not to do, as they think proper, on the expiry of all paikasht leases. In Bengal the paikashts have always been considered to have no rights independent of the particular engagements under which they hold; and those being cancelled, they are liable to immediate eviction.

(3) Under the operation of the laws of 1812 and 1819, raiyats might, if they pleased, bind themselves by specific engagements, irrespective of pargana rates and having done so voluntarily, they would be held strictly to the terms of their engagement. (This interpretation was given by Mr. Justice Trevor in the Rent Case, 1865.)

Subsequent laws to explain the position.

In Regulation XI of 1822, the expression, khudkasht kudeemee raiyat (resident and hereditary raiyat with a prescriptive right of occupancy), was used in section 32 to designate the cultivator who would not be liable to eviction on a sale for arrears of revenue. It crystallised the doctrine that simple khudkasht raiyats who had their origin subsequent to the Settlement were liable to eviction; though if not evicted, they under section 33, could be called upon to pay rents determined according to the law and usage of the country. By Act XII of 1841 and Act 1 of 1845 (which repealed the former), a purchaser acquired his estate free of all encumbrances which had been imposed on it after the time of the Settlement, and he is entitled, after notice given under section 10 of Regulation V of 1812, to enhance at discretion, anything in the Regulations to the contrary notwithstanding, the rents of all under-tenures in the said estate and to eject all under-tenants with certain exceptions, amongst which are khudkasht kudeemee, but not simple khudkasht raiyats.[1] All these laws were enacted to explain the points which were not considered explicit in the Regulations of 1793.

Justice Trevor and other authorities on variability of rent inherent in pargana rate.

"Since the Decennial Settlement, the rates of rent have adjusted themselves to the varying prices irrespective of any extraneous demand; and the terms used in Regulation V of 1812 have regard to the varying rates in the different localities which have resulted soley under the increased activity and industry caused by the comparative security obtained under the Permanent Settlement. To suppose that a pargana or local rate of rent could be permanently fixed in amount when the circumstances of the country were improving, is to suppose an impossible state of things. The proportion of the produce calculated in money payable to the zamindar, represented by the pargana or local rate, remains the same; but it will be represented, under the circumstances supposed, by an increased quantity of precious metals." This statement comes from Justice Trevor, fully concurred in by Justices Loch,

[1]"It follows that these laws distinctly gave the purchaser the power to eject a khudkasht raiyat whose tenure was created after the Permanent Settlement, and if not ejected, they are liable to be assessed at the discretion of the landlord. It is, in short, introducing into this country competition in the place of customary rents."—Judgment in the Great Rent Case 1865.

Bayley, Jackson and Glover. Mr. Justice Macpherson observes in a similar strain: "The rent payable by some of those raiyats was fixed and unalterable. The rent payable by others was subject to increase under certain conditions. Rents prior to the Settlement were fixed according to the produce of the land, so much of each bigha going to the Government as land revenue and so much to the raiyat. The same principle prevailed after the Settlement, save that the position of the zamindar, as landholder between the Government and the actual cultivator, was distinctly recognised. The rents were from time to time adjusted, and there was a pargana rate or customary rate of the neighbourhood (based on the original rule as to dividing the produce proportionately and from time to time readjusted) to refer to in case of dispute, and according to these rates the disputes were settled."

The rents of raiyats with occupancy right could not be enhanced above the pargana rates. "As regards new lands and persons not having a right of occupancy, the zamindars could make what arrangements they pleased." Mr. Justice Campbell concluded: "Looking to the expressions regarding the expiry and renewal of pattas, and the advantage to be derived from valuable articles of produce, I imagine that the framers of the early Regulations very probably contemplated periodical readjustment of rates between zamindars and raiyats with reference to the value of produce in the same way as was originally contemplated in Akbar's settlements, the plan of which was that the money rates were to be fixed every ten years on the average rates of the preceding ten, that is, the grain rates remaining the same, the money rates were to be adjusted in proportion to the average price of grain."

Mr. Holt Mackenzie, in his evidence before the Select Committee of the House of Commons in 1832, pointed out that the rent rates "varied with the quality of the land or the nature of crop grown."

The meaning of "fixed rates of rent" given by Sir Barnes Peacock.

The Hon'ble Sir Barnes Peacock, Chief Justice of Bengal, pitched the case of Bengal landlords on a higher key when he observed: "By the term 'fixed rates of rent,' I understand not merely fixed and definite sums payable as rent, but also rates regulated by certain fixed principles, such, for instance, as a certain proportion of the gross or the net produce of every bigha, or such a sum of money as would be equal to such a proportion of the produce, or such a sum as would give to the raiyat any fixed rate of profit after payment of all expenses of cultivation." (Great Rent Case Judgment.)

Principle of enhancement inherent in pargana rate.

It is admitted that "on a correct construction of the Regulations and Acts before Act X (of 1859) no landlord was legally entitled to

raise the rents of any village raiyats above the pargana or customary nirikh or rate." But Mr. Field says that the principle of enhancement is inherent in the principle of the pargana rate. "At a time when there was much waste land and cultivation was extending, the importance of periodical measurements must have been considerable. The assessment was merely the mode of making a pargana nirikh. While the nirikh thus established was in force (i.e., during the period intervening before a new nirikh was made), rent could not according to the custom of the country be raised above the rates of the nirikh."

The question gathers complication from the fact that the Permanent Settlement, although it settled and defined the mutual rights of the State and zamindars, did not settle, define, or ascertain the mutual rights of zamindars and raiyats. The Hon'ble Mr. Libert, who was not a friend of the zamindar, declared that the Permanent Settlement "transferred to the zamindars those indefinite proprietary rights in the soil which had formerly been claimed by the State. But it did not settle or define the rights of raiyats or occupying cultivators. The legislation of 1793 left those outstanding and undefined."

Mr. Mackenzie's criticisms met.

Critics hold that under the Regulations of the Permanent Settlement landlords had no right to enhance rent. They argue that the Permanent Settlement was devised for permanent fixation not only of revenue but of rent. Mr. Mackenzie, a member of the Rent Law Commission, 1880, and the then Revenue Secretary, Government of Bengal, who insisted on this view of the case, enunciated the following constitutional theory of raiyats' rent in Bengal: "My own view is that under the law and custom of Bengal no zamindar is entitled to rack-rent any cultivator admitted to settlement on the village lands. On his demesne lands (like khamar, nij-jote or sir lands) he can ask what rates he likes, but on the village lands the rates should be uniform, customary and fair, and such as to divide equitably between the zamindar and the cultivator in accordance with the custom that may have established itself in the village the net profits of cultivation after defraying all outgoings and the actual cultivators' wage." Even if this theory, put forward by one of the bitterest critics of landlords, is accepted, the enhancement of rent is possible,

(*a*) if a raiyat is paying rent at a less rate than the village nirikh,

(*b*) if a raiyat holds land for which he is not paying rent at all,

(*c*) if profits leap up through a general rise in the value of produce, as equitable division of the net profits is emphasised.

Fixity of rent not admitted by the Rent Law Commission, 1880.

The Rent Law Commission, 1880, which zealously tried to guard raiyats' rights, pertinently remarked that "whatever differences of

opinion there may be as to the other rights which belonged to the raiyats in 1793, we think there can be no doubt as to one right, the right, that is, to have the proportion of the produce payable by the raiyat determined by Government. Such had been the practice of the Hindu and Muhammadan sovereigns, and the Government of 1793, though it created zamindars 'proprietors,' using a term which seemed to convey the absolute disposing power of an English landlord, never intended to destroy this right or to abdicate the function cast upon it by the ancient law of the country."

The above quotation is significant as the Rent Law Commission has made admission therein that (*a*) the rights of raiyats were uncertain, (*b*) the proportion of produce payable by raiyat is variable at the hands of Government, (*c*) zamindars were given in 1793 absolute disposing power. The claim that the Government of 1793 fixed rents in perpetuity is not admitted by the Rent Law Commission. The rent being liable to enhancement, could it be varied by Government or by landlords? Rent can be settled by custom, competition and law. The Permanent Settlement of 1793 left the matter to custom: the principle of competition was not introduced, and, in fact, in 1793 there was no competition among tenants for lands; it was the tenants who were to be courted; the Government forbore to determine the rents and left them to be settled by the parties, subject to the prevailing rate. It is not true to say that Government retained the rights and, in fact, it did not exercise any such right till 1885. Even in Act X of 1859 Government had no intention to disturb the customary rate.

Formula in Hills v. *Iswar Ghose.*

Sir Barnes Peacock, Chief Justice of Bengal, in the case of Hills *v.* Iswar Ghose, 1862, laid down the doctrine that the absolute increase in the value of the produce and also the portion of it due to the tenant's expenditure of capital or labour being ascertained, the landlord was entitled to the rest as economic rent. He took his stand on the Malthusian definition of rent which states that "rent is that portion of the value of the whole produce which remains to the owner of the land after all the outgoings belonging to its cultivators, of whatever kind, have been paid, including the profits of the capital employed, estimated, according to the usual and ordinary rate of agricultural capital at the time being." This decision was, however, overruled in the Great Rent Case, 1865, where the majority of Judges repudiated the theory of economic rent, and advocated that the rent should be fair and equitable which meant that the portion of the gross produce calculated in money, to which the zamindar was entitled under the custom of the country, would vary according to the rise of the value of produce.

The rent, fixed by the law and the usage of the country, is nothing but the pargana rate or the rate paid for similar lands in adjacent places.

Formula in the Great Rent Case.

The formula by which the increase should be determined seems to be the following: the value of the gross produce before the alleged alteration in the same is to the rent which the land then bore, as the altered value of the produce is to the rent which should be assessed on it, or, in another form, the old rent must bear to the new rent the same proportion as the former value of the produce bears to its present value. The value of the produce which each would receive, the one as rent, the other as raiyat's profit, would remain in the same proportion to each other, though the figures representing that proportion will be altered. This rule of proportion was accepted in the Great Rent Case, 1865. The Hon'ble Chief Justice, however, was in favour of granting something more to the Bengal landlords.

Some authorities who disclaim the intention of the Permanent Settlement to fix rents in perpetuity.

We give below more authorities who held that the rent was not fixed in perpetuity by the Permanent Settlement Regulations—

(1) Mr. Harington in his Analysis considered the question whether the rents of the permanent raiyats should be fixed. After giving arguments for and against the question, he finally summed up: "On the whole, considering the Act of Parliament ordaining the general preservation of rights, the orders of the Court of Directors for a settlement of ten years and the foregoing arguments for and against the raiyats, zamindars and Government respectively, I am of opinion, no perpetual right of possession, on condition of paying a fixed rent, should, at present, be conferred on those raiyats who have not already a declared or prescriptive title to such." Mr. Harington reproduced these views of 1789 six and twenty years after, in 1815, when he published his Analysis, and "the context shows that he would not have done so, if they had not been accepted."

(2) Mr. A. D. Campbell observed in 1832: "The Permanent Settlement, whilst it shut the public treasury against any increased receipt from the land by commuting the zamindars' variable payment, as the hereditary contractor for the land revenue, into a fixed jama determined irrevocably, entirely neglected to fix the amount payable by the cultivator to this hereditary contractor." Mr. Campbell was a great critic of zamindars' rights.

(3) "In point of law and fact, the raiyat can claim under the provisions of Lord Cornwallis' Code no rights at all. For the few privileges he may enjoy, he is indebted entirely to the forbearance or to the fears of his task master, zamindar."—(Land Tenure By a Civilian.)

(4) "I make this conclusion upon the supposition that they are to be at liberty to raise their rents, like landlords in other countries; for

if they are restricted from raising the assessment fixed by Government, and are at the same time liable for all losses, they have not the free management of their estates and hardly deserve the name of owners"—Colonel Munro's observation in or about 1806 (*vide* Appendix to the Fifth Report).

(5) "True it is that an arrangement, under which Government would reserve to itself a claim upon a share of the value of the increased produce of the land, or rather the right of augmenting the land tax in proportion to the increased power of the land to pay it, does imply a departure from the principle of the Permanent Settlement in Bengal which has secured to the proprietors of estates the whole advantage of a rise in their rental"—Letter to Government of Bengal by the Directors in 1812.

Similar observations are found in abundance in various distinguished works.

Privy Council on the zamindar's right to enhance rent.

The provisions of the Permanent Settlement Regulations, the legislations passed thereafter to confirm the rights granted by the Regulations of 1793, the express assent of the Government of Bengal and the Court of Directors, and last, but not the least, the judicial decisions go to establish the zamindar's right to enhance rents. The Judicial Committee of the Privy Council affirmed the right in no uncertain language when their Lordships observed in Radhika Chaudhrani *v.* Bama Sundari Dasi (*vide* 13 Moore's Indian Appeals, p. 248): "A suit to enhance proceeds on the presumption, that a zamindar, holding under the Perpetual Settlement, has the right from time to time to raise the rents of all the rent-paying lands within his zamindari according to the pargana or current rates, unless either he be precluded from the exercise of that right by a contract binding on him, or the lands in question can be brought within one of the exemptions recognised by Regulation VIII of 1793." And again:—"The right of the zamindar to enhance rent is presumable until the contrary is shown." (Forbes *v.* Mir Mahammed Hossain, 12 Bengal Law Reports, p. 215.)

Our Committee cannot, therefore, agree that the permanency of rent was contemplated, far less provided for, by the Permanent Settlement Regulations of 1793.

Q. 48. Our Committee has shown that the zamindar's right to enhance rents receives corroboration from (*a*) the terms of the Permanent Settlement Regulations, (*b*) other legislations passed after 1793 to confirm and explain the rights granted by the Permanent Settlement, and (*c*) declarations of contemporary and distinguished authorities. Section 50(1) of the Bengal Tenancy Act was necessary to respect the rights of "mukararidars" and "istemrardars" who are

not liable to be assessed with any increase under section 49 of Regulation VIII of 1793. The doctrine that a raiyat paying the same rate of rent for 20 years be presumed to have held at that rate from the time of the Permanent Settlement and, therefore, must have the right to fixity of rent is a premium on the zamindars' timid assertion of the right to enhance rents. There were raiyats who were not assessed with any increase at all, and they acquired permanent rights through the indulgence of zamindars. All this does not create new rights for all raiyats; it merely points to "the lapse of right through non-use."

Fixation of revenue has no relation to fixation of rent.

There cannot be a "general ground," unless specifically mentioned in the Regulations, that the permanent fixation of revenue is tantamount to permanent fixation of rent. If there was any such intention, it could have been easily provided for. On the other hand, they provided for fixity of rent in respect of raiyats with hereditary and prescriptive rights but wanted the matter of "assessment of increase" in respect of simple khudkashts and paiykashts to be determined in accordance with the principles of the pargana rate, a standard which was to be appealed to and which would put the limit of assessment. Moreover, "by the terms of the Permanent Settlement, Government pledged themselves to the zamindars that they were to have the full benefit of the assessments having been made permanent." "The Governor-General in Council trusts," to quote the very language of Regulation I of 1793, "that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry."[1]

Sir Barnes Peacock's point of view.

Accordingly, the Hon'ble Sir Barnes Peacock, Chief Justice of Bengal, held: "To hold that the landowners are not fairly and equitably entitled to receive from the raiyats since the Permanent Settlement as much as they would have done if the assessment had not been permanent and the land had been reassessed is, in my opinion, to put such a construction upon Act X of 1859 as to render it a violation of the pledge made by Government to the zamindars at the time of the

[1]It is well-known that landlords have increased their incomes as well as resources of the country. Firstly, they did it by the extension of cultivation. Secondly, the Charter Act of 1813 took away the monopoly of the East India Company and "it has been asserted and perhaps justly that much of the increased wealth of Bengal in late years is to be ascribed to the opening of the trade in 1814 thereby occasioning a greatly increased demand for the produce of land. In so far, however, as this cause may have operated to the increase of wealth, it is confined to landlords and dealers in commodities" (Raja Rammohan Roy's observation in 1831). Hence, landlords are entitled to "the fruits of their own good management and industry."

Permanent Settlement; for there is no doubt in my mind that, to give the landholder the full benefit of that engagement, they ought to be allowed to collect as much from the land, and to enjoy as large a portion of the net produce without an increase of the assessment, as they would have done if the settlement had not been made permanent, and the landholders had been reassessd."

Right to enhance rents has got the sanction of Courts.

Q. 49. It is an equitable principle of Jurisprudence that legislation should not ordinarily have retrospective effect; if it seeks to disturb rights legally accrued and peacefully enjoyed and to make things move backward, the case for compensation gathers force. Mr. A. Mackenzie, Revenue Secretary to the Government of Bengal, 1880, who is a close critic of the zamindar's right, admitted that landlords had enhanced the rents of raiyats, and that their action "had had the seal and sanction of the law courts." Accordingly, he observed: "I am not prepared to say that we can now in 1880 ignore all the changes that have taken place in the last 90 years in the relative positions of landlord and tenant throughout Bengal, or that we can confiscate all the rights to which landlords may perhaps be said to have acquired a prescriptive title. One of these rights is certainly that of enhancing the rent of each individual tenant." (Note submitted in connection with the Rent Law Commission.)

Present landlords and raiyats have little connection with those at the Settlement.

Moreover, the old lines between zamindars and raiyats have become disfigured. "While the present landlords against whom we propose to rehabilitate these rights are in nine cases out of ten tenureholders who are either the original khudkashts and their successors who, as the value of produce has increased, have converted themselves into middlemen by subletting or are persons who have bought their tenures with reference to the rent roll at the date of their purchase" (Mr. Harrison's Note, 1880, in connection with the Rent Law Commission). In the interval between 1793 and 1880 the process of disintegration of estates and raiyats' holdings has been so rapid that the present cultivators who are successors, or in any true sense representatives of raiyats in 1793, must be very few indeed. There is another aspect of the question. A distinction must be made between the ancient tenures which subsisted before the Permanent Settlement and such as those created by the landholders or their representatives with whom that settlement was made. At the time of the Settlement, two-thirds lay waste. "If waste lands have been brought into cultivation on specific conditions voluntarily accepted by the tenant or any other tenures have been acquired from the landholders since the formation of the Permanent Settlement

and such conditions and such tenures are legal and unexceptionable under the Regulations in force; they must, I think, be maintained." (Harington's observations quoted by Mr. Harrison.)

Difficulties of returning to the old rents.

On the basis of the prevailing rates of rent, subinfeudation among landlords has taken place, and if there is a return to the old rentals at the Settlement of 1793, middle tenures, which have grown up, will collapse. But these tenures were created lawfully; the tenureholders invested money and considered them as business propositions. If the margin of increment since the Settlement is taken away, it will mean the extinguishment of those tenures which have come into being on the strength of the above margin. Without fair compensation, those middle tenures cannot, and should not, be prejudiced.

Impossibility of ascertaining rents at the time of Settlement.

There have been new landlords, new raiyats. Act X of 1859 by virtue of section 6 endowed raiyats, holding or cultivating lands for continuous 12 years, with occupancy rights, and thereby the Act created new raiyats with occupancy rights to the prejudice of the old khudkasht raiyats. In this way, violent changes have taken place in the constitution and status of raiyats. Moreover, after the record-of-rights being prepared after Survey and Settlement in conformity with Chapter X of the Bengal Tenancy Act, 1885, the maintenance of old records in all estates, compiled by patwaris and kanungos, has been absolutely redundant. It will, therefore, be an impossible task to determine the old rents in respect of different plots at the time of the Settlement. The majority of the tenancies in Bengal have been created after the Settlement. The successors of the raiyats of 1793 cannot possibly be found out as many of them have turned themselves into tenureholders. Those who can be traced by the help of section 50 (1) of the Bengal Tenancy Act need no protection. All these difficulties will overwhelm any one enquiring into the matters set forth in the question.

We are not told here what are the grievances of tenants but are at the same time asked to suggest "practical proposals" for removing their grievances. If there is any claim put forward by tenants for going back to the quantum of rent (paid so much per bigha) prevailing at the Settlement of 1793, and not to the rate of rent (meaning the ratio of rent to produce) subsisting in 1793, and if this claim is supposed to have started from "a sense of grievance," our Committee is at a loss to suggest any "practical proposal," although there may be good many theoretical proposals, such as removal of the grievance, so placed, after payment of adequate compensation to the interests affected by the transaction. We propose to discuss the question afterwards if an exceedingly low rent, which is sought to be put forward as an ideal

by the series of questions tabulated herein, is good for farming or farmers. This aspect of the question seems to be entirely lost in the maze of proposals calculated to remove the "grievances" of tenants without reference to the improvement of agriculture.

The right of landlords to enhance rents was affected by Act X of 1859.

Q. 50. Our Committee has held that there was no intention in the framers of the Permanent Settlement that the rents of the simple khudkashts and paikashts should remain unalterable and we have already discussed the matter, in some detail, in answers to questions 46 and 47. Accordingly, the grounds of enhancement adopted for the first time in Act of 1859 and followed in a modified form in the subsequent tenancy legislations did not contravene the rights of tenants; rather they affected the rights of landlords, because (1) the conditions of enhancement were limited to the specified grounds, and (2) the rise of prices of other crops except the staple food crops[1] could not be shared by landlords. The "rise of prices" was inserted as a ground of enhancement in consonance with the connotation of the expression, "fair and equitable rate," introduced in Act X of 1859. The terms, "fair and equitable", when applied to tenants with a right of occupancy, are to be considered as equivalent to the varying expressions, "pargana rates," "rates paid for similar lands in the adjacent places" and "rates fixed by the law and usage of the country." This interpretation was accepted in the Great Rent Case, 1865. All these expressions permitted enhancement on the ground of rise of prices of agricultural crops. Accordingly, "the rise of the prices of staple food crops" was inserted as one of the grounds of enhancement to lend conformity to the interpretation of the "fair and equitable rates."

Waste lands cultivated by zamindars.

Q. 51. Many of the zamindaris that were settled in 1793 contained a considerable proportion of waste land which zamindars had been permitted to cultivate without any further assessment. The extension of cultivation was the principal thing insisted upon by the framers of the Permanent Settlement, and it was assumed that the excessive assessment at the time of 1793 would become moderate through extension of cultivation and other ways.

Waste lands to be settled at pargana rate.

We have already shown that the Permanent Settlement has definitely provided that new tenancies will be created at the pargana rates. We have explained what the pargana rate means; it signifies the rate (that

[1]It was perhaps limited to staple food crops as it was found that paddy formed the chief agricultural produce of Bengal.

is, ratio of rent to produce) prevailing in 1793. We cannot, therefore, exactly follow the last part of the question, viz., "what action should be taken to give effect to that intention." We have noted that the zamindars under the Permanent Settlement Regulations had full freedom to grant lands to tenants at any rent, the limit being the pargana rate. During the currency of the lease, the rate could not be enhanced; the rent could only be enhanced at the renewal of lease but the village rents should not exceed the pargana rate.[1] If the rate imposed was below the pargana rate, zamindars were then undoubtedly acting within their legitimate bounds; if the rate imposed was above the pargana rate, it was for the Courts to interfere. Moreover, Government has laid down principles in the Tenancy Act for the regulation of the rate of rents and raiyats paying more than "the prevailing rate of rent" can obtain relief under the provisions of the Bengal Tenancy Act. Moreover, the raiyati rental in our country is low; it is illustrated by the fact that a vast subinfeudation has taken place among the raiyats, and it is held by many distinguished authorities that the rate of rent paid by the lowest grade of under-raiyat is, in fact, equivalent of the "pargana rate"; the raiyati rental judged by the principle of the pargana rate is rather a favoured one. Hence, "favoured rate" is the creation of landlords; "the unfavoured rate" payable by the lowest grade of raiyats is the creation of the higher grade of raiyats. In the circumstances, it is difficult to follow what is exactly meant by taking "action to give effect to the intention of settling waste lands at the pargana rates."

Economic rent defined and explained.

Q. 52. All that is produced is divided into rent, profit and wages. Rent[2] may therefore be defined, for the purpose of clearness, as "that payment for the use of land which the owner can obtain by free competition for lending out the use of it to others." If the element of competition is taken away, the payment made loses the character of rent. When the payment which a raiyat makes over to a superior tenureholder is "simply the handing over to the other partner in the firm of that share of receipts of the firm which under the deed of

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[1] "Reading the law up to 1859, the only class of raiyats recognised as entitled to hold at privileged rates (i.e., at lower rates than neighbours) were those raiyats whose rates were fixed for ever. The rents of other raiyates might be raised up to the pargana or customary rate by an auction-purchaser or by any other landlord not bound by special contract to accept a lower rate. On a correct construction of the Regulations and Acts before Act X of 1859, no landlord was legally entitled to raise the rents of any village raiyats above the pargana (customary) nirikh (rate)"—Mr. A. Mackenzie, the great critic of the zamindar's rights, observed in 1880. Our Committee accepts the position. The "pargana rate" has been explained in our previous answer, and on a correct understanding of the pargana rate depends the appreciation of the question of so-called enhancement of rent.

[2] "The income derived from the ownership of land is commonly called rent, and the term is stretched so as to include that derived from letting houses and even such things as boats, pianos and sewing machines"—Prof. Marshall. Economists zealously reserved the term "rent" to the income derived from "land."

partnership belongs to him," it is no rent at all. The theory of rent has but little direct application in such places where custom and law tend to make rent fixed and unalterable, as we find in our country. But in places, where the cultivator makes payment which can be revised on the basis of the probable surplus produce of the land after deducting the cultivator's necessaries and his little luxuries, according to the customary standard of the place, and on the supposition that he cultivates with energy and skill that are normal in that place, this kind of charge is of the nature of economic rent. That was the view taken by Prof. Marshall.[1] Economic rent may be defined, to quote Prof. Seligman, as the rent which an intelligent tenant who enjoys complete mobility of labour, who has an alternative investment for his capital and who is thoroughly acquainted with the conditions of the market, could afford to pay.[2] The implications of economic rent, sought to be conveyed in the question under reply, are admittedly confusing.

Producer's surplus product of many factors.

It is held that "the producer's surplus which is excess of the gross income from the improved land over what is required to remunerate him for the fresh doses of capital and labour he annually applies is the rent."[3] The surplus depends on the richness of land, the relative values of those things which he has to sell and of those things which he needs to buy. The fertility of land cannot be measured absolutely, for it varies with the nature of the crops raised, and with the methods and intensity of cultivation. The prices at which the various requisites of the farm can be bought and its various products sold depend on the industrial environment. The efficiency of the cultivator is a factor to be counted. A rise in the value of agricultural produce increases the producer's surplus and its real value.

Rent, the result of economic forces, varies from land to land.

The rent of land is thus its economic product, that is, the contribution of land over and above that of the labour and the capital employed on the land. In agriculture the unit is the individual farm. Every farm has special characteristics; every farmer has his own efficiency; all this exercises mighty influence on the cost of production, the amount of produce and the prices it will fetch and the profit which

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[1]Taxes are supposed to be apportioned to the net income which actually is earned, and rents to that which would be earned by an individual of normal ability. A successful trader will pay on ten times as large an actual income ten times as large a tax as his neighbour who lives in equally advantageous premises and pays equal rents.

[2]Where there is ignorance, lack of opportunity or lack of mobility on the part of tenant, actual rent may be higher than economic rent.

[3]The Ricardian theory of rent (according to which the rent of any given grade of land is measured by the difference in the value of the produce resulting from a given outlay of labour and capital on that land and on the no-rent land) ignores the variation in the efficiency of the factors other than land.

will be realised. So does rent vary from land to land. Political Economy cannot determine the definite and ascertainable quantity to be demanded as rent; it can only analyse the conditions and enumerate the forces tending to the determination of rent. It is competition which determines the right amount of rent. If rent be insufficient, the landlord refuses; if rent be higher, the tenant refuses. "It is a matter of common observation that competition tends to distribute the farmers on the different grades of land in accordance with their efficiency. But it is not the individual farmers alone who are benefited as the result of the working out of this tendency. The combination of the productive forces that puts the most useful agents of production into the hands of the most efficient farmers results in the largest total production of economic goods for the country as a whole."

Competition regulates the rate of rent.

It must be recognised that with the passing of time, "the relative abundance of the factors of production changes, market conditions change, and the degree of skill and knowledge changes, resulting in changes in the amount of rent paid for a given piece of land." Whether land rents will increase or decrease depends on the relation of population to improvements. Growth of population or an elevation of the standard of life means an increased demand; improvements in production or transportation mean increased supply. When the population keeps ahead of the improvements, rents will rise. When the improvements keep ahead of the population, rents will fall. The important economic questions regarding rent relate to the causes which "determine the amount of rent paid at a given time for a given farm, the difference in the amounts of rent paid for different farms at the same time, and the changes in the amounts of rent on a given farm during a period of years." In a progressive society the principle of competition is allowed to regulate the rate of rent, and "it is only," observes Mr. Mill, "through the principle of competition that Political Economy has any pretension to the character of a science."

Market value of land regulated by competition.

The contention that the market value of land should be taken into consideration is not far removed from the operation of the principle of competition. The market value of land is goverened by the laws of supply and demand which are very complex, and the difficult problems in distribution arise when costs and prices do not correspond.

Money rent should have reference to productivity of land.

If rent forms a definite share of the produce and is paid in cash at its prevailing money value, the principle does not tend to be unfair as the ratio of rent to produce is being maintained in all circumstances.

That is the principle of the pargana rate, and this principle is practically followed in the Punjab.[1] But, on the other hand, if rent, as a definite share of the produce, is converted into its money equivalent, and that specified sum of money is retained as rent without any reference to the variable productivity of land, it undoubtedly brings about the most unscientific state of things, as we find in Bengal, viz., the poorer land paying higher rent in proportion.

The Punjab method of revenue assessment on a sliding scale.

In the matter of determination of fair rent, the new Punjab experiment of revenue assessment on a sliding scale may be profitably studied. The central idea of the scheme is that the land value demand will be adjusted to the price-level. The main features of the system are: (1) The commutation prices proposed to be introduced by Government are worked out on the basis of the average prices of the previous twenty years. The standard grain share of the State is then commuted in terms of these average prices, and thus a set of average assessment rates are arrived at, these differing with the class of land and other factors. (2) These revenue rates will represent the maxima that Government can take during the currency of the Settlement. If in any year the general price-level is lower, a remission in the revenue rates will be given in the following year proportionate to the fall. (3) The percentage of remission due for a particular year is calculated on the basis of index numbers of the aggregative type. By multiplying the percentage of the total matured area under each important crop, the average yield per acre of each of those crops and the commutation price assumed for each of those crops, Government will obtain an index figure. A corresponding index figure will then be calculated for the year previous to that for which remissions are to be given. The difference of the two

[1]In the vast majority of cases rent is paid in kind. In suits for arrears of rent, the problem remains of determining what amount should be decreed. The average outturn per acre of each crop is ascertained as accurately as possible and the produce is obtained by multiplying the acreage under each crop by its assumed yield. A table showing the Settlement Officer's estimate of the outturn per acre of the principal crop in each assessment is available. For the purposes of a rent suit his figures may usually be accepted as they stand, if the land of the tenant's holding seems to be of ordinary quality, and the harvest was an average one. They may be raised or lowered to any extent that appears proper, if the land is specially good or bad, or the harvest is shown to have been much above or below the normal. In order to convert the grain rent into money one must find out what the harvest prices were. These are recorded for each assessment circle in its revenue register, to which the Tahsildar or Naib-Tahsildar (who generally hears rent cases) can easily refer. In the judgment of the Revenue Court the process by which it arrived at the rent decreed ought to be briefly explained and Appellate Courts should insist on this being done. The revenue should theoretically absorb one-fourth of the rental of the land. The rent found to be due should always be compared with the revenue of the tenant's holding. Unless the former is at least four times the latter, it can hardly, provided the harvest was a normal one, be fair to the landlord, and some flaw in the calculation may be suspected. It may be a good deal more without being necessarily unfair to the tenant. (The Punjab Land Administration Manual.)

index figures will represent the remission to be granted.[1] Each year a new index figure will be calculated and the amount of remission will depend on the level of prices during the previous year.

The Punjab experiment embodies the principle of regulating the assessment according to the ability of the assessee as measured by his money income from land. There are obvious difficulties in introducing this system in its entirety in Bengal but the main principles, akin to those of the pargana rate, can be adopted without greatly disturbing the existing arrangement. The customary rate, which is not adjusted to the price-level, is bound to become unscientific in course of time, and in fixing the cash rent, this time element cannot be ignored.

Q. 53. Our Committee holds that the existing rents paid by cultivators are settled by an abitrary rule of law and custom, sanctioned by the Tenancy Act; the scientific principles discussed in answer to question 53 have found no room. Under the Permanent Settlement Regulations, we have shown, the pargana rates were to be the standard beyond which village rents should not exceed. The ratio of rent to produce being recognised in the principle of the pargana rate,[2] the rent demand was adjusted to the price-level. Act X of 1859 provided that raiyats having right of occupancy and not holding at fixed rates were entitled to receive pattas at "fair and equitable rates." In case of dispute, the rate previously paid by the raiyats shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of the Act (section 5). The Act thus does not define "fair and equitable rates" and leaves the task of interpretation to courts. The "fair and equitable rates" have, accordingly, been considered to be the equivalent of pargana rates, rates which similar lands bear in places adjacent, or rates fixed by the law and usage of the country, and are to be explained and interpreted by these customary rates. Justice Trevor observed in the Great Rent Case: "It appears to me that it was the intention of the Legislature to place the raiyat

[1]The percentage of remission will depend upon the scheduled commutation prices and the market price of products ruling in the previous year as deduced below—

$$R = \frac{(KP - KP_1)\ 100}{KP} = \frac{100\ (P - P_1)}{P}$$

Where R represents the percentage of remission to be given for the year, K the product of the percentages of the total matured area under the crop and the average yield per acre of the crop, which is assumed as a constant for ordinary years, P represents the level of prices taken for the maxima revenue rates and Pi represents the prevailing average prices at the villages in the previous year. (*Vide* Prof. P. J. Thomas' paper on "Reforms of Land Revenue Assessment" read at the nineteenth session of the Indian Economic Conference, 1930.)

[2]This ideal of the pargana rate was in existence even in the Hindu theory of land system when Manu detailed the ratio of the share as being of grain an eighth part, a sixth or a twelfth part according to the nature of the soil and the labour necessary to cultivate it. This ideal was followed in the principle of Akbar's assessment and it practically continued. It is a grand canon in the determination of an equitable land rent. The differential scale of rates, intended to apply to different classes of soils or crops, involves a more equitable principle of assessment than the rule of a uniform rent.

whose rights were created by Act X in exactly the same position as all other tenants with a right of occupancy held under the old Regulations .....The terms, fair and equitable, seem to me to have relation to the customary rate of the country representing a share of the gross produce, calculated in money under whatever form of expression it be designated, and as the law directs that in case of disputes the rate of rent which a raiyat with a right of occupancy has paid shall be considered fair and equitable until the contrary be shown, it is a fair presumption that the rent now paid represents the customary rent in the absence of any proof to the contrary.

What the "prevailing rate" means

Act X of 1859 also used the expression, "the prevailing rate," but gave no definition thereto. Accordingly, it should be interpreted by the Courts in accord with the expression, "fair and equitable." On the strength of judicial decisions, the words "prevailing rate" came to mean the rate actually paid and current in the village and not the average rate. Where it is found that there is no one prevailing rate and that raiyats holding land in the village of similar description and with similar advantages pay rent at varying rates, the lowest rate may be taken, and the rent may be enhanced upto that limit. In ascertaining the prevailing rate regard must be had to the rent paid by occupancy raiyats holding similar lands in the whole village, or in neighbouring village and not to the rent paid by some of them only.

"Prevailing rate" in the Bengal Tenancy Act.

Section 31A of the Bengal Tenancy Act gives a statutory definition of "the prevailing rate," viz., the highest of such rates at which and at rates higher than which the larger portion of land of a similar description and with similar advantages are held within any village or villages.[1] Section 31A was inserted by the Bengal Tenancy (Amendment) Act of 1938. The definition adopted involves a departure from the principle laid down in the judicial decisions that the prevailing rate should be that paid by the majority of raiyats in the village. To guard against all the rates being levelled up to the maximum rate by manipulation of the new prevailing rates from time to time, it was provided

[1]The illustration as given in the Tenancy Act to find out the prevailing rate is given below—

Bighas.		Rs. A. P.
100	at	1— 0—0
200	at	1— 8—0
150	at	1—12—0
100	at	2— 0—0
150	at	2— 4—0

Then Rs. 2-4 is not the prevailing rate, because only 150 bighas, or less than half, are held at that rate. Rs. 2 is not the prevailing rate, because 250 bighas, or less than half, are held at that or a higher rate. Re. 1-12 is the prevailing rate, because 400 bighas, or more than half, are held either at this or a higher rate, and this is the highest rate at which, and at the rates higher than which, more than half the land is held.

in section 31B that a prevailing rate once determined should not be liable to enhancement on the ground of rise in prices.

"Prevailing rate" of Bengal Tenancy Act ignores the principles of pargana rate.

The "prevailing rate," as defined by the Bengal Tenancy Act, ignores the principles of the pargana rate: the connection between the amount of rent and the productivity of land is lost; the principle of competition has hardly found any play in the matter of regulating rent-rates in Bengal; the customary rate is thus being maintained under cover of the Tenancy Act without any reference to the income of land. In this wise, the Bengal Tenancy Act has introduced complications in the rate of rent and involved a breach of the pargana rate principles, adopted by the framers of the Permanent Settlement. Thus, we get at present poorer lands paying higher rents and superior lands paying lower rents through the operation of "the prevailing rate."

Prevailing rate—an unfortunate doctrine for agricultural economics.

We have described the growth of the concept of rent in Bengal. It was an unfortunate decision of the Rent Law Commission, 1880, that Government had the right of regulating the rate of rent and, accordingly, the Government thought it proper on their part to introduce new principles in the concept of "the prevailing rate," principles which had no basis on economic doctrines. The principles of agricultural economics were not recognised in the attempt to give a statutory definition to the expression, "prevailing rate," which was to be availed of in regulating the rate of agricultural rent in Bengal where agriculture forms the main industry. Custom was rigidly adhered to, and through the play of the provisions of the Tenancy Act, bad customary rates were created and these rates were followed. In a country sunk in illiteracy, where there is hardly any alternative means of livelihood and a great pressure of population on land, the principle of competition was always discouraged so that raiyats might not be mulcted. But the consideration of the productivity of land was entirely forgotten with damaging effects on agriculture.

The low raiyati rental leading to rack-renting of under-raiyats.

It is true that in the regulation of the raiyati rental, the principle of competition was kept at bay, but it was taken advantage of by raiyats in sub-settling their lands to under-raiyats. The result has been the high rental of under-raiyats. The raiyati rental remaining low, the scope for subletting to under-raiyats at a fairly remunerative rent was widened. Thus, the Bengal Tenancy Act kept the raiyati rental at a level without any connection with productivity of land and broadened

the opportunities for the rack-renting of under-raiyats by occupancy raiyats. The raiyati rents may be customary rates but they are not adjusted according to the change in the prices of stape products[1] or to the variable fertility of land. We are thus confronted now with a very unscientific state of rent-rates in Bengal.

Q. 54. It is not within the experience of our Committee that a tenant is forced to pay higher rents as he is weak and poor. It is true that various rates prevail in the locality, and that generally has relation to the bargaining strength of the party concerned, to the productivity of land, and to the liking, sentimental or otherwise, that a tenant may have in respect of a particular land. In the United Provinces, we have found that caste has something to do with rent-rates, Brahmins being favoured. There are, and may be, a host of considerations for favouring a particular tenant, but landlords do not exploit the weakness of tenants in rack-renting them.

In our answer to question 53 we have indicated how the Tenancy Act has brought forward considerations, which are not scientific nor sanctioned by the Permanent Settlement Regulations, in regulating the agricultural rents in Bengal to the detriment of actual cultivators.

The rate and not the quantum of rent should be fixed.

Q. 55. We have already discussed the principles of fixing rent. The uniform quantum of cash rent per bigha is not desirable, but a uniform basis or rate is essential. One-sixth of the produce as rent was generally the basis in the Hindu period; one-third was generally adopted during the Muhammadan period; one-fourth is generally adopted in modern days. It is difficult to trace a uniform basis throughout all the stages of history in India. Whatever be the basis, it may be regulated that the money-equivalent of rent should have relation to one-fourth or one-sixth of the gross produce. That was the principle of the pargana rate. If the matter is entirely left to the play of competition, the uniform basis cannot be achieved, as various economic forces will regulate the keenness of competition. If the limit of rent is regulated by law, a sort of uniform basis is desirable.

Grades among raiyats to find no room.

Relying on the modern principles of taxation, we should recommend one-fourth of the gross produce as the uniform basis of rent. Fertile

[1]The Rent Act and the Bengal Tenancy Act have always forbidden, enhancement of rent on account of the rise in the prices of non-food crops, such as jute, tobacco, crops which are commercially important and economically essential for the material wealth of the province. Thus, for instance, the profits arising out of the enhanced price of jute can never be directly shared in by the landlords under the provisions of the Bengal Tenancy Act. The entire surplus due to rise in prices (which may be called unearned increment) goes to raiyats.

lands will pay more in money-equivalent and infertile will pay less. This uniform basis has meaning, if there are no grades among raiyats. If a lower grade pays a higher rate and the upper grade naturally lower, and the attempt extends only to establishing the rent of the higher grade of raiyats on uniform basis leaving the lower grades to be mulcted and rack-rented by the superior grades, there is hardly any improvement on the given land system, except that the grades of landlords are out of the picture. All the troubles and expenses are undertaken by the State to have access to the land to improve the tenure in the interest of agriculture. If all the grades of raiyats are kept intact, the State does not obtain an access to land, it can only touch the higher grades of raiyats. All efforts will thus run to waste. When the State and raiyats are contemplated to be brought close together, as is suggested in the question under reply, our Committee envisages the position that under the altered condition the State will act as landlord and raiyat as cultivator. Otherwise, the whole scheme is meaningless from the nation's point of view.

Rent-rates may be revised with reference to the capability of the soil, etc.

In the United Provinces we find that in the matter of revising rent-rates soil classification is made, and there shall be different cash-rates for each class of soil in each circle. We have shown in our previous answers that a new experiment on a sliding scale of revenue assessment is made in the Punjab. After the ultimate analysis of all the modern methods of fixing rents, it is evident that rents shall have relation to the capabilities of land, nature of crops, methods of cultivation, provisions for checking the exhaustion of the soil and the expectation of profits to be realised. Hence, different rent-rates are bound to occur, but that does not warrant the laying down of different principles in the matter of the basis of rent. To make the position of raiyats more secure and rent-rates more scientific, rent-rates may be revised in normal conditions every three years by reference to the capabilities of soil and the average prices of products and other relevant factors connected therewith. In a scheme of State-landlordism, similar plans are quite practicable.

The question of record-of-rights.

Record-of-rights is prepared for different purposes, and it may be undertaken at longer intervals. The basis of rent can be formulated without reference to the record-of-rights; the quantum of rent for the specified area can be had from the record-of-rights, and that rate will vary in accordance with the principles adopted. In the Collectorate all such records will be preserved, and raiyats will get receipts every year. All these records and receipts will be necessary

in preparing the next record-of-rights which may be prepared every twenty or twenty-five years.

Q. 56. The question stands answered in our previous replies. A definite share of the produce, preferably one-fourth, may be fixed, but it should be alterable according to the money-value of the produce. Accordingly, enhancement of rent is to be provided for. If such a scheme is attempted to be introduced within the framework of the Permanent Settlement, it shall have to be recognised that inroads on landlords' income derivable from the raiyati rental should not be made, otherwise the system cannot stand the strain of taxation when their right to enhance rents is circumscribed or extinguished.

Q. 57. The basis of rent may be fixed in perpetuity as our Committee strongly believes that the rent will, and should, vary according to the various economic factors tending to the determination of it on a scientific basis. If the money value of rent is fixed in perpetuity, it will lead to the most unscientific state of things in course of time. All these principles have already been discussed.

"Needs of the nation" to guide taxation measures and loans.

Our Committee cannot appreciate the alteration of rent according to the needs of the State. The concept of "the needs of the State" is a mediaeval one; they should be subordinated to "the needs of the nation." If the costs of administration and ventures of the State having no direct relation to the welfare of the citizens require more money, our Committee will, far from favouring an increase of the rent-rate, recommend retrenchment to live within the means. But if the needs of the nation, that is, the nation-building activities of the country, require more money, taxes have always been increased. But before launching on any such new taxes, three things should be taken into consideration: (1) the limit of the direct taxation of one's income should be fixed at a fair level, (2) avenues of screwing up better incomes from indirect sources shall have to be explored, (3) loans will be raised, should necessity arise. (In public finance, debts contracted for productive purposes are not liabilities.)

Rent is a form of direct taxation and affects the classes of people with whom the prosperity of the nation is bound up, and accordingly, we are not in favour of enhancing the rate of rent in normal conditions and in ordinary circumstances. Moreover, "the needs of the State" is a dangerous plea, illusive to the public and even elusive to the servants of the State.

The quantum of rent payable may be revised every three or five years in normal times keeping the basis of rent intact.

Q. 58. In a scheme of zamindari system there are numerous difficulties in the substitution of an income-tax on profits from agriculture

in place of rent. If it is done, the income-tax to be paid by the inferior grade shall have to be paid to the superior grade, the State receiving tax from the superior grade only. The scheme of graduation applicable to the income-tax can hardly be made practicable. In that case it will be a change of name, revenue or rent being rolled into income-tax. Further, there can be no exemption limit in a zamindari system. In a system of state-landlordism, rents from cultivators can be realised as income-taxes, that is, the principles of income-tax regulating the rate of rent. If any exemption limit is provided for, a larger proportion of the land in Bengal, rendered small and uneconomic by the laws of inheritance and the opportunities thrown open by the Tenancy Act, would escape payment of any rent at all. Thus, many raiyats and tenureholders shall not be subject to any tax, and this arrangement is not adapted to the institution of private landlordism. It is true that the number of non-paying tenureholders and raiyats will increase in the process of time.

The principles of fixing fair rents under the Bengal Tenancy Act defective.

Q. 59. In our answer to question 53, we have discussed that the principles for fixing fair and equitable rent, as formulated by the Bengal Tenancy Act, are defective. The principles of enhancing rents are equally defective for, amongst others, the following reasons:—

(1) The concept of "the prevailing rate of rent" is not helpful for a legitimate enhancement of rent,

(2) the discretion of the Court in the matter of enhancement of rent is very great, and it is difficult to prove an "improvement" which is to be registered under the provisions of the Act,

(3) the rise in the prices of the commercial crops is absolutely shared in by raiyats,

(4) the limit of enhancement is fixed (section 29).

Mr. A. C. Guha,[1] sometime Personal Assistant to the Director of Land Records, Bengal, observes: "So far as my experience in Bengal Settlement goes, the rise of prices is practically the only ground on which decrees for enhancement can be obtained. The prevailing rate for land of similar description with similar advantages in the *vicinity* is difficult to prove, as also an increase in the productive powers of the land in respect of which enhancement is sought. In order to prove the latter, witnesses from the spot must be produced and elaborate inquiries instituted. The production of evidence essential to success

[1]Vide A. C. Guha's "Land Systems of Bengal and Behar," published in 1915, p. 162.

is a matter of great expense and the cost of victory in a single suit is out of all proportion to the advantage gained."

Enhancement of rent discouraged by the Tenancy Act.

We have noted that the Tenancy Act provides for enhancement not on account of the rise in the prices of agricultural produce but in the prices of staple food crops. The increase must also be a steady and normal one and should be lasting. Section 32 of the Tenancy Act points out the difficulties of an enhancement on account of the rise in the prices of food crops. The ordinary economic principles of competition tending to the rise of rent, such as the increase of population, and the agricultural progress tending to anything which makes agriculture remunerative, and the accumulation of capital, are not applicable to Bengal. "The increase in the efficiency of men, which results in more produce from the same amount of land and labour, will, other things being the same, tend to reduce rents; for with the demand for produce remaining the same, increased supply will tend to lower the prices of produce. While this would be the first effect, lower prices would tend to stimulate population and in the long run increased efficiency will enable a growing population to encroach farther and farther down the scale to less and less productive land and bid higher and higher for the good land, driving rents higher than they could have been without the increased human efficiency."[1]

The Bengal Tenancy (Amendment) Act, 1938, suspends all provisions relating to enhancement of rent. It is perhaps done on the supposition that provisions for an enhancement of rent do not find any room for devising an ideal land tenure. That this is not so has been explained in our previous replies.

Enhancement due to fluvial action under the Bengal Tenancy Act.

Q. 60. Enhancement as a result of fluvial action is permitted under the Bengal Tenancy Act because abatement of rent can be asked for in the matter of deterioration of land by a deposit of sand or other specific cause, sudden or gradual. The one is complementary to the other. A plea for reduction may be taken on the ground that the landlord has refused or neglected to carry out the arrangements in respect of the maintenance of embankments which were in force at the time when rent was settled, and the soil of the holding has thereby deteriorated. Silt deposits in the deltaic portion of the province and sand deposits in the moribund portion of the Bengal delta are common

[1]Dr. Taylor points out that differences exist among men as well as among the different grades of land which give basis for a special differential return in the form of profits to men and that competition may result in the decrease of one of these surpluses to the advantage of the other. If farmers and workmen and equipment increase more rapidly than land of the quality in use, competitive forces tend to increase rent at the expense of the return to the other factors.

occurrences. "Fluvial action", as understood in the Bengal Tenancy Act, includes a change in the course of the river rendering irrigation from the river practicable, when it was not previously practicable. Even when land deteriorates through a change in the course of river (such as we find in western and central Bengal), rent, in respect of the portion of land affected, may be reduced under the provisions of the Tenancy Act whereas landlords shall have to meet their stipulated dues without any possibility of abatement.

Accordingly, it has been provided that landlords will share with raiyats in better returns from lands as a result of "fluvial action." The concept of "landlord," as envisaged by the Permanent Settlement of 1793, is not that of a rent-collector; landlords have duties to perform, obligations to carry out and rights to enjoy. The general trend of the Tenancy Act is to reduce the landlord into the position of a rent-collector, an attempt bringing in harmful effects on the land system and on the improvement of agriculture. There is, however, a feeble recognition that a landlord is something more than a rent-collector when he is asked to maintain embankments, etc. (section 38), and that unless he does all this, reduction of rent will follow. It is the inherent right of landlords to share in the returns from fluvial action. Moreover, clause (*d*) of section 30 is complementary to section 39 of the Bengal Tenancy Act. Section 30 cannot, therefore, be considered separately.

Our Committee regrets to note from the wording of the question under discussion that no attempt is made to differentiate "a landlord" from a "rent-receiver" or "rent-collector." That is most unfortunate, and forms the basis of a wrong approach in the matter of tenancy amendments. Our Committee is, therefore, strongly in favour of retaining clause (*d*) of section 30 of the Bengal Tenancy Act.

The legitimacy of enhancement of rent on account of rise in prices.

Q. 61. In our previous replies we have discussed and advocated that (1) the theory of rent, as propounded by the Bengal Tenancy Act, is defective, (2) provisions for enhancement of rent are essential in the interest of agriculture, (3) the ratio of rent should be to the money value of crops. If "economic principles" are to be brought to bear on the theory of rent, the enhancement of rent on account of rise in prices of agricultural produce (not of staple food crops only) has been an accepted maxim. Our Committee does not desire to repeat the arguments here but it begs to place in no uncertain language that enhancements on account of rise in prices cannot be objected to "on principle," and should not be extinguished under any pretence whatever.

The theory of rent is discussed in our answers to questions 52 and 53; the questions of pargana rate and enhancement on principle are

also discussed in our answers to questions 46 and 47; the necessity of retaining and relaxing the provisions regarding enhancement of rent has been put forward under the authority of the Royal Commission of Agriculture in India, and the Land Committee of the English Liberal Party in the concluding portion of our answer to question 3. It will be noticed in our discussions that we have advocated an enhancement of rent, principally on account of the rise in prices of agricultural produce, in the interest of better functioning of the landlord-tenant system. For better working of the system it is essential; for better agriculture it is necessary; for broad-basing land tenures on a scientific basis, it has to be accepted. Cash rents, fixed in perpetuity without reference to the prevailing money value of the crops, are prejudicial both to agriculture and agriculturists: agriculture will suffer by shrinkage of capital; agriculturists will be fastened with unscientific rates in course of time. Moreover, low rents generally accompany low farming.

Our Committee is, therefore, in favour of permitting an enhancement of rent on account of rise in prices without increasing, of course, the weight of rental pressure. Enhancement of the quantity of cash rent does not, in such case, increase the rental pressure, and if this is remembered, most of the arguments against enhancement lose their validity.

Q. 62. Raiyats who require their whole crops for their own consumption and have no surplus to meet legitimate dues and other necessaries have only uneconomic holdings for their occupation and cultivation. The holdings are thus uneconomic and inadequate to meet the dues. Such an unscientific state calls for immediate revision, as it will afford no genuine relief if the enhancement on account of the rise in prices is forbidden in respect of those tenants. These raiyats, fastened with uneconomic holdings, are the creation of the Bengal Tenancy Act; their degeneration could have been checked by legislative restrictions. In course of time, more raiyats will be coming within this category. Such a miserable state of things should be immediately removed. Our Committee, however, agrees that no landlord will enhance rent, under any plea, of those raiyats who require "their whole crops for their own consumption;" he is, and will be, naturally satisfied with existing rents in similar cases. Moreover, the Court has much discretion in the matter of enhancement of rents under the provisions of the Bengal Tenancy Act, and given that discretion, there is no need for a separate treatment of such cases. But our Committee begs to stress that the continuance of such raiyats below subsistence limit is a clog on the improvement of agriculture and a danger to social stability and solidarity.

Q. 63. We have seen that the doctrine of "the prevailing rate" keeps the rents at a very unscientific level. Moreover, the presumption is that the existing rent is fair and equitable, although it is a rebuttable presumption. Naturally, our Committee will object to the deletion of the ground of enhancement (viz., the rent is below the prevailing rate) under all circumstances; that will be altering the very concept of rent, which, although defective, is being maintained by the tenancy legislations. If this ground of enhancement is removed, the question arises, what will be the limit of rent-rate in Bengal. We have discussed all these questions in our previous replies. If there are provisions in the law for reduction of rent on the ground of prevailing rate, it amounts to stating that the "prevailing rate" will exist only to bring about reduction, but in the matter of enhancement there will be no guide. The salami, if at all paid by raiyats, should not be a factor in keeping the rent low as it is the price for getting holdings from the grip of other bargainers. The gains from the improvements, effected long ago by raiyats, have been enjoyed by them, and even the improvements exhaust. Accordingly, those improvements made long ago, should not be put forward as a plea for extinguishing the legitimate grounds of enhancement of rent by landlords.

Q. 64. The prevailing rate of rent being accepted as the basis of the fixation of fair rent and the existing rate of rent being treated fair and equitable, the limit of rent is practically settled and, accordingly, a specific provision of law for reducing high contractual rents or for limiting rents for new settlements is not essential. If any statutory limit is to be fixed, the theory of rent ought to be scientific, and, under any scientific canon of taxation, the raiyati rental has nowhere exceeded the limit. In the settlement of rents under Chapter X of the Bengal Tenancy Act, the rent is fixed at a sum favourable to raiyats. There are, of course, under-raiyats in Bengal who may be said to be rack-rented. Clause 2 of section 48D of the Tenancy Act practically sets the limit of the rate of rent of an under-raiyat to one-third of the value of the average estimated produce of the land for the previous decennial period (in the case of money rent), and to one-half of produce in the case of produce rent. The limit of the rent of an occupancy raiyat is practically set by sections 36 and 37 of the Bengal Tenancy Act. The provisions for the reduction of rent nullify the evil effects of high contractual rents. Our Committee is of opinion that unless the theory of rent is placed on a scientific basis, the limit of rents cannot be statutorily fixed. There is another difficulty: if there is a statutory limit, the tendency of new assessments will run towards achieving the limit, and the favourable rates of rents which the higher

grades of raiyats generally enjoy may ultimately be prejudicially affected.

Q. 65. Chapter X of the Bengal Tenancy Act is hailed as the "Magna Charta" of the rights of raiyats. This chapter was introduced into the Bengal Tenancy Act to safeguard the rights of raiyats. When rents are settled under this Chapter, the decisions are generally in favour of tenants. We have already referred to the ratio of rent to produce worked out in the Great Rent Case. Rents are generally settled far below the calculated amount of increase. As for instance, if on calculation the increase comes to annas seven, the real increase effected is not more than two to two and half annas only. In previous replies our Committee has taken exception to the concept of "prevailing rate of rent," because it does not ensure fairness to landlords. We have criticised that on economic and scientific principles. Subject to that general criticism, our Committee is of opinion that Chapter X works out fairly well and in favour of raiyats. Chapter X is a matter of procedure law and, therein, there is practically no defect; the substantive provisions of the Tenancy Act are, and have been, criticised on different grounds which need not be raised here. That is the experience of the Committee with regard to permanently settled and temporarily settled estates.

Q. 66. It is not within the experience of our Committee that the settlement of fair rents in private estates under section 105 of the Bengal Tenancy Act has resulted in unfair enhancement. On the other hand, the settlement has been more favourable to tenants. We have held that the prevailing rate of rent, which guides the Courts in settling rents, works out in favour of raiyats; landlords do not gain even their legitimate ratio of increase. The question of unfair enhancement cannot, and does not, therefore, arise.

Land revenue increased in every revisional settlement in khas mahal and temporarily settled estates.

Q. 67. The question primarily concerns the khas mahals and temporarily settled estates. The rent in khas mahals was very low at the time of the original settlement. It has, therefore, been gradually increased at every revisional settlement. It is no wonder if the tendency is yet the same, although the policy is abandoned in some cases due to political pressure. This is not true in temporarily settled estates. It is known that in the Sunderban area the rent was low in the original settlement, but it was low because the proprietors had to conquer vast difficulties, undertake reclamation works, and to accept great risks of inundation with consequential damage to the fertility of land. Government in dealing

with the Sunderbans thought primarily of reclamation of lands: their object was not to realise high revenue demand. The task of reclamation was at once difficult and costly. The grantees, assured by the Rules of 1830 and 1853, have fairly reclaimed the Sunderbans.

The difficulties of Sunderban proprietors are enhanced by the following factors: (*a*) the Sunderbans are surrounded by salt water rivers, having in most cases higher level than the agricultural lands inside the embankments, (*b*) cultivation has to depend on seasonal rains, (*c*) one crop is possible in the area, (*d*) it takes at least three years' washing with rain water to make lands fit for cultivation after they have once been flooded with salt water due to accidental break in the embankment, (*e*) every three years there is a failure of crop due to natural causes. The task of reclamation of Sunderbans was beyond the resources of Government, and naturally private capital had to be tempted for playing its part, a risky part no doubt. At the time of the revision of the assessment, proprietors were assured of "a moderate increase" only; but in practice it was found that Government had exploited the situation to the utmost in increasing land revenue to an inordinate extent.[1]

It may be mentioned here that Sunderban proprietors have definite covenants with their tenants that they can proportionately enhance their rents in case of their revenues being increased, although they do not exercise, or have not made use of their contractual rights. It has been established by judicial decisions that their covenant runs with the land, and is entitled to be respected and obeyed.[2]

Our Committee, however, does not agree that all revisional settlements are made with the primary object of enhancing revenue. There are, and may be cases, where a moderate enhancement is inevitable. But in respect of Sunderbans proprietors, the ratio of enhancement has been generally unfair.

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[1]Vide "Studies in the Land Economics of Bengal" by Mr. Sachin Sen, published in 1935. The terms offered in the Grant Rule of 1830 and in the Rules of 1853 as modified in 1863, and the two sets of Rules of 1879, which on examination, will be found to stress the importance of reclamation in the Sunderbans, rather than of the improvement of revenue even at a future date, are discussed in pages 286 to 289 of the book referred to.

[2]Vide Kumar Chandra Guin & another v. Kumar Narendra Nath Mitter and others, 34 C.W.N. 121 (1929). In the said case the purchaser was liable to compensate the landlord as the agreement, which contracted for the deposit of one-fourth share of the proper value in the sherista of landlord in the event of a sale by the grantee, was a convenant running with the land, being a benefit reserved for the landlord with reference to the land demised. Accordingly, the other "benefits" in the agreement can also be availed of by landlords, if they desire to press it for observance.

Q. 68. Some Sunderban lots are mentioned below where the enhancements of revenue have been obviously unfair:—

Touzi No.	Name of holder (Grants under the Rules of 1879).	Previous revenue.	Revised revenue.
		Rs. a. p.	Rs.
2807	Harmohan Ghosh and Others.	844 0 0	3,545
1392	Roy Satindra Nath Chowdhury	750 0 0	4,167
2741	Manindra Nath Mandal ..	935 0 0	4,236
1722	Haricharan Pal ..	938 0 0	6,275
2739	Roy Manmatha Nath Mitter Bahadur	938 0 0	4,715
2808	The Mahesh Chunder Land Reclamation and Agricultural Improvement Co., Ltd. .. (Grants under the Rules of 1853).	206 0 0	838
1493	Narendra Nath Mitra ..	1,459 0 0	9,657
1477	The Port Canning and Land Improvement Co., Ltd. ..	1,151 6 0	8,726
3195	Tarapada Ghosh ..	95 4 2	1,112
1442	Nirod Chandra Mallick and others.	1,138 13 10	6,565

The above figures are selected from the statement showing revenue of certain lots in 24-Parganas by the Hon'ble Sir P. C. Mitter, K.C.S.I., Revenue Member, Government of Bengal, in the Legislative Council on the 16th March, 1933, in reply to a question. The increase of 200 to 500 per cent. in revenue cannot be justified under the plea of "moderate increase."

Q. 71. In the permanently settled estates, Government can grant remissions under the special conditions mentioned in the question, but such remisions are hardly granted. This provision is a dead letter; zamindars do not ask for it, perhaps due to the stringency of the conditions. We are not aware of a single instance when such remission has been granted in any particular area and made applicable to all the zamindars. They go on satisfying their revenue demands even in the worst year when a calamitous state of things prevails. On the other hand, landlords suspend collections of rents and remit large amount of interests on arrear rents and costs of rent suits realisable from tenants. Such leniency is shown even in normal years; that is an act of charity and special concession following from the liberal spirit of zamindars. They can be borne out from the records of estates of landlords and Government. As for instance, the remissions made by the Maharajadhiraja Bahadur of Burdwan in rents and cesses from 1307 B..S to 1344 B.S. total Rs. 32,69,802.

The rules can be, and should be, changed and improved by well-thought-out amendments to the existing provisions without encroaching on the basic principle of the Permanent Settlement, so that in times of famine conditions prevailing in any part of the country, zamindars may not be driven to a desperate situation so as to make good their revenue demands by encumbering their estates.

Cost of production of jute, paddy and sugarcane.

Q. 72. The Commission has circularised certain estimates of the cost of cultivation of jute, paddy and sugarcane from the Settlement Reports and other sources. The Bengal Provincial Banking Enquiry Committee calculates the average yield and cost of cultivation per acre of jute, paddy and sugarcane which are as follows:—

Name of crop.	Average cost of crop production.	Normal yield per acre in 1928-29.
	Rs.	Mds.
Rice (cleaned)	47	12·4
Jute	92	16·2
Sugarcane (gur)	276	37·2

The cost of production, as expressed in terms of money, will naturally vary after depression. The total cost of production per acre, as given in the report of the Imperial Council of Agricultural Research, is given below—

Birbhum—Rs. 162·3 to Rs. 257·9 in sugarcane, Rs. 25·2 to 34·7 in aman rice.

Rajshahi—Rs. 123·2 to 164·2 in sugarcane, Rs. 19·4 to 23·8 in aus paddy, and Rs. 172 to 20·7 in aman paddy.

Bogra—Rs. 30·2 to 34·2 in jute.

The average yield and cost of cultivation for the whole province do not truly indicate our agricultural position; there are regional variations which should be taken note of, because in any plan of increasing the yield and reducing the cost, those local deficiencies shall have to be grappled in the first instance.

Water and its importance in agriculture.

Q. 73. It is well-known that water operates as the chief limiting agent in agriculture and the growth of human numbers; soil through its effects on fertility governs the nature and rotation of crops; the subsoil water level determines the cropping and methods of irrigation and cultivation. "Man and the wider environment have evolved together through mutual influences." Land, river, tree and man

are not independent factors, and the advance of civilisation depends on the mutual co-operation of all these factors. The destruction of forest covering ultimately results in decreased humidity of the air and lessened fertility of the region; "the loss of the periodical movements of water from the interior low lands to the main channels and vice versa alters the regime of the khals and water courses and upsets the drainage; the reclamation of low lands coupled with the continuous exhaustion of subsoil water reservoirs by means of thousands of alluvial wells lowers the water level; the lowering of the water level depletes the pastures and certain crops are no longer grown; with the destruction of vegetation on the river banks, the forces of soil erosion under the heavy monsoon rainfall are given free play." The construction of embankments, roads and railways facilitate the silting up of river beds and the change of water course, leaving a legacy of soil exhaustion, water-logging and fever for the next generation.[1]

Factors governing agricultural production.

The factors governing the agricultural properity of the different areas of Bengal are: (1) the relative fertility of the soil, (2) adequate and seasonal rainfall, and (3) liability to enriching inundations with silt-bearing river water. In the Statistical Account of Bengal, we read that "lands adjacent to rivers, or watered by them, do not require manure, but other lands do," and "that low lands which are annuallly flooded do not require to lie fallow in order to preserve their fertility." The Imperial Gazetteer of India and the Census Reports show that eastern Bengal enjoys certain natural advantages. There, rainfall is abundant, is usually well distributed and is never known to fail. The land of the delta is enriched by yearly deposits of silt. The climate, the soil, and the river system are all alike favourable to cultivation. "The alluvial deposits which spill over its bank year by year afford the fields a top-dressing of inexhaustible fertility. The natural overflow of the periodic

[1] "Man's invasion of the river's domain upsets the whole drainage organisation. An obstruction or prevention of the tidal flow and water-logging not only bring about agricultural deterioration in the course of years but also enable the anopheles to breed and multiply, and malaria becomes endemic, destroying or debilitating the population. Cholera becomes a periodic scourge when the flood is low and there is no flush or drainage. Further, obstruction in the channels considerably raises the high tide levels in the estuaries as well as in the upper reaches of the larger rivers, and bores become a menace to the riverine people. Pressure of population has thus led to a premature utilisation of low-lying land and marsh by methods, which have interfered with nature's processes, and which ultimately redound to the ruin of the river system and the marsh-dweller alike. Man, if he wishes to control nature must to a great extent follow her, for she has her own wisdom. If he seriously disturbs the balance and rhythm in which nature delights, her vengeance often follows quickly and man has no escape"—Dr. Radha Kamal Mukherjee's "Changing Face of Bengal," published in 1938. This point of view was discussed and placed by Dr. Bentley (Director of Public Health, Bengal), in his report on "Malaria and Agriculture in Bengal," published in 1925.

inundation is sufficient to manure a soil which receives in addition a heavy rainfall, and this natural overflow is allowed to find its own lines of drainage. The plains of eastern Bengal, watered by the Brahmaputra, yield abundant crops of rice, jute and mustard, year after year, without undergoing any visible exhaustion."

The decline of western and central Bengal is eloquent. The Bengal Census Report of 1901 states—

"Central Bengal which is bounded on the west by the Bhagirathi, on the north by the Padma, and on the east by the Madhumati, was formerly the Ganges delta, but it has been gradually raised above flood level, and the great rivers which formerly flowed through it, depositing their fertilising silt, yielding an ample supply of wholesome drinking water and draining it, have shrunk to insignificance. Their mouths have been silted up and their beds are often higher than the surrounding country, which they are no longer able to drain. The country has become less healthy, and far less fertile than it was formerly."

The Report of the Census of India for 1911 states with reference to central Bengal—

"The Ganges, having strayed further east, has ceased to enrich the soil with its fertilising silt. The numerous distributaries down which it once found its way to the sea have degenerated into stagnant lagoons, and the health of the people has thus been seriously affected."

Decline of Nadia.

The Nadia Fever Commission, 1881, remarked:—

"There is a consensus of opinion among Europeans and Natives that, except in the lower lands used for the rice crop reaped in the cold weather, there is a distinct decrease in fertility of the soil of Nadia. Considering that no land except that used for sugarcane and tobacco is ever manured, and that the Ganges floods, which are so fertilising, are shut out by the embankments of the rivers, it is not to be wondered at that gradually the soil should become partially exhausted."

The following from the Nadia Gazetteer is illuminating—

"In earlier days before the rivers had completed their work of land making, the district was far more liable than now to considerable inundations which, although they might destroy the crop which was actually standing at the time of their visitation, brought with them a coating silt, which ensured an excellent outturn for the following crop. This enrichment of the soil, however, no longer takes place as frequently as it used to, and as the very light

manuring which is applied is insufficient to compensate for the loss occasioned to the soil by cropping, there can be little doubt that land is getting less and less capable of giving a good return."

"The Nadia district is a part of the old delta, but its rivers have gradually dried up and it no longer receives the annual deposits of silt which formerly renewed its fertility." (Bengal Census Report, 1901.) The Director of Agriculture reported in 1910-11 and 1912-13 that in Nadia the soil is deteriorating on account of the gradual silting up of the river channels.

Exhaustion of Murshidabad.

Even in the beginning of the nineteenth century the district of Murshidabad used to receive the annual overflow of the river which gave richness to the district. But the unexpected change for the worse was directly associated with the cessation of the periodical inundations which used formerly to enrich the soil. The Bengal Census Report, 1901, states: "The district of Murshidabad is bisected from north to south by the Bhagirathi.....East of this river, the soil is low-lying and alluvial and forms a part of the old delta. It is fertile but liable to be flooded by the spill of the Bhagirathi and other rivers to prevent which numerous embankments have at various times been created. The most important is the line of embankments along the left bank of the Bhagirathi. The propriety of maintaining all these embankments has often been called in question. The land which would otherwise be flooded is thereby deprived of its supply of fertilising silt, and the river confined to its bed deposits its silt there and thus gradually raises itself above the level of the surrounding country."

Decline of agriculture in Jessore.

Jessore was also a prosperous district and even in 1870 Westland, when describing a considerable portion of Jessore, says that "for some months in the year, the whole region may be said to be under water. The tract is not only liable to inundation but the inundation is calculated upon, and the crops do not prosper without it." Since 1870, matters have changed for the worse in Jessore. "The interior Jessore rivers, namely the Nabaganga, Chitra, Kabadak, Bhairab, Harihar and the Bhadra have within the last century ceased to be the true deltaic rivers. They no longer convey the waters of the great Ganges to the sea, and have degenerated into lines of drainage which carry the local surface water to the Bay of

Bengal" (Statistical Account of Bengal). The natural form of fertilisation has now seased, and "the area under aman rice is contracting owing to deficient floods." The Director of Agriculture reported in 1908: "Large tracts in Magura, Narial and in the Sadar subdivision of Jessore are showing signs of permanent deterioration owing to want of facilities for the ingress and regress of rain and flood water."

Decline of Burdwan.

In 1760, Burdwan, which then included the present districts of Hooghly and Howrah, was described by the officers of the East India Company as the most productive; it was spoken of as "a garden in the midst of wilderness." In 1815, Hamilton referred to Burdwan as being in a progressive state of improvement and said that there was no other portion of territory in Hindusthan that could compare with it for the productive agricultural value in proportion to its size. This prosperous state continued up to 1860. Then the great epidemic fever spread to Burdwan. Raja Digamber Mitter first pointed out that embankments were the cause of epidemic fever (*vide* Raja Digamber Mitter's Minute published as an appendix to the Report of the Fever Epidemic Commission). In 1869 Dr. Thompson, Civil Surgeon of Hooghly, reporting on the epidemic fever in that district remarked: "What then are the causes which have caused an once flourishing district to be half populated, and which threaten to throw half the land out of cultivation. The portion of the Hooghly district which has suffered most from the ravages of this fever is that comprised between the Damodar and the Hooghly rivers. Intersecting this land from west to east run many khals or rivulets. They were the means where the floods of the Damodar found egress into the Hooghly. They were not only the safety valves to the Damodar, but they exercised a fertilising and sanitary influence on the whole surface of the district. But it was found (as often happens) that this process was not wholly beneficial. It had the inconvenience of inundating a large tract of country in seasons of great flood and thus crops suffered and the revenue also. A remedy was proposed and carried out, a bund was created on the left or eastern bank of the Damodar, cutting off the head waters of the khals; and these in consequence commenced silting up."

Embankments, railways, roads, all designed without due regard to the interest of agriculture.

The disastrous effects of embankments on agriculture in Burdwan and Hooghly are now well recognised. Though the

people of Burdwan have enjoyed comparative safety from the frequent inundations of the river, yet their lands have lost in fertility owing to the loss of alluvial deposits which the flood water used to leave before. Embankments that prevent flooding may be a direct cause of malaria. The cessation of inundation causes a decline in agriculture and in sanitation. The epidemic malaria causes depopulation partly by increased mortality and reduced fecundity and partly by stimulating migration. Embankments, railways and roads were designed and executed without due regard to the fundamental needs of agriculture and to the physical peculiarities of deltaic areas. Thus the course of river has changed making flourishing districts into fertile regions. Central and western Bengal are portions of the Ganges delta which have now become inactive. Most parts of the delta "have been raised above the level of periodical inundation by the silt deposits of the Ganges and its tributaries which formerly distributed abundant red water derived from the main river." The rivers have deteriorated as the result of the Ganges having marched eastward; the fertility of the soil has thus declined owing to loss of inundation silt. Necessarily, agricultural yield has declined and many lands are lying fallow and reverting to jungles. For the greater part of the year, many rivers of central and western Bengal are merely chains of stagnant pools. The railway lines and embankments have shut out the flood waters of the Damodar, the Rupnarain, the Ajay and Mayrakshi and of other minor rivers which acted as spill chanels for the distribution of the red water in west Bengal; they have also contributed to the decline of the Jamuna, the Jelanghi and the Mathabhanga and of other spill channels in central Bengal.

Three factors, viz., (1) the silted up rivers, channels and khals, (2) the high sub-soil water, and (3) the jungly and moist condition of the villages which increase the malaria rate,[1] contribute to the decline of agriculture. Decline in agriculture in the districts of the moribund delta (that is, in Burdwan and Presidency divisions) can be gauged from the decrease in acreage under cultivation, decrease in the amount of products and also from deterioration of the health of the people which tells on the efficiency of tillers. The following

[1]Seventeen out of 28 districts are now malarious in Bengal—this statement was made by the Hon'ble Sir B. P. Singh Roy as Minister of Local Self-Government in Bengal. In the dense shade of the jungle there are innumerable low-lying places, swamps, ponds and the like where anopheles thrive. The increase of jungle is symptomatic of the decline of agriculture and does also foster disease and rural exodus.

Taken from Dr. Radha Kamal Mukherjee's "Changing Face of Bengal", p. 90. The decrease of the cultivated area of the moribund districts is on the increase; the total cropped area (in 1933-34) is 711,200 acres in Burdwan, 858,400 acres in Nadia, 810,000 acres in Jessore. But in the districts in the active delta, more lands are being tilled.

table giving a comparison of agriculture and health movement in the moribund and active delta will describe the story vividly:—

	Normal cropped area at the end of the last century (in acres).	Cropped area (1931-32) (in acres).	Incidence of Malaria, 1930 (fever index).
Districts in the moribund delta.			
Burdwan	1,248,300	742,100	53·4
Nadia	990,400	913,200	56·5
Murshidabad	1,106,600	946,500	41·7
Jessore	1,303,600	887,300	48·2
Hooghly	541,400	293,900	46·6
Districts in the active delta.			
Dacca	1,086,169	1,709,000	9·7
Mymensingh	3,076,800	3,674,500	11·0
Faridpur	1,295,800	1,470,300	26·6
Bakarganj	1,660,000	2,015,000	8·3
Tippera	1,315,900	1,472,800	7·2
Noakhali	429,087	1,192,600	10·5

The losses of West Bengal and central Bengal.

On account of the decline of fertility, jungle growth and prevalence of malaria, the amount of good cultural land left fallow is quite large in the decadent areas of Bengal. Depopulation and physical breakdown, due to malaria and decline of soil fertility, are leading to a serious set-back of cultivation in central and western Bengal. "There is all round depression centered round the decrease of cultivation." The backbone of agriculture in the large parts of Burdwan and Hooghly is now the immigrant aboriginal. "It is obvious that Sonthal agriculture is a much less skilled and intensive farming," and thus even if fallow lands are taken up, agricultural decline can hardly be checked. The decrease of the area under cultivation is undoubtedly disconcerting. But the loss of yield due to "the red water famine" is incalculable. The figures of the crop returns worked out by the Chinsura Agricultural Farm are as follows:—

	Average yield of paddy. (maund per acre.)
Without irrigation ...	... 15
With irrigation ...	... 28
With silt irrigation ...	... 35

The loss of yield can be estimated from the following figures:

	Average yield. (maund per acre.)	
	Aman.	Aus.
Nadia	9·8	10·2
Jessore	14·0	10·6
24-Parganas	10·3	12·4

Thus on the basis of the Dacca figure where the rich red water is available for crop cultivation, the monetary losses through lower yields in western Bengal are indeed alarming. In addition to the loss of yield, crops irrigated with rich red water of the flood have a vigour and stamina enabling them to withstand the early failure of the monsoon, which the anaemic crops deprived of the red water cannot possess. Anaemic cereals and anaemic men and cattle go together, observes Sir W. W. Wilcocks.

To calculate the losses of west Bengal and central Bengal the following should be taken note of:—

(1) Districts in active delta enjoy an abundant rainfall, early and late, whereas West Bengal and central Bengal suffer from lack of sufficient rainfall.[1]

(2) The percentage of twice-cropped area to the cultivable area is very small in West Bengal and central Bengal, whereas in East Bengal it is high.

(3) The aus crop dominates in the western Bengal districts, as it grows on high lands with a sandy soil. When the monsoon rain is irregularly distributed, the aus crop declines. Naturally, the future of agriculture in the aus crop districts is uncertain. In eastern Bengal the aman crop dominates, and it implies less dependence upon rainfall and more upon the rise of the rivers. In the high lands of East Bengal, jute, which is Bengal's money crop, is grown because of better and assured rainfall. Thus, central Bengal and western Bengal have less aman crop (which yields the finest grain), less jute crop (with which the prosperity of Bengal is bound up) and greater aus crop (which yields the least outturn and worst grain). If the deltaic character of the landscape is disturbed and the river changes its course again, the agricultural future of some parts of East Bengal and North Bengal will be jeopardised. Jute is an exhausting crop on soils not replenished by the annual silt deposits by rivers; the aman crop can only thrive only where the periodic ingress and discharge of flood

[1] "The dominant climatological factor in Indian agriculture is the monsoon. Not only is the cropping and system of agriculture dominated by the character of the monsoon but the Indian budget has frequently been described as a gamble in rain."—Bryce C. Burt of Imperial Council of Agricultural Research in his paper on "Agriculture and Animal Husbandry in India," 1937.

are not interfered with, the boro rice which gives larger outturn than the aman crop can be grown successfully in the low lands and marshes and on the sand banks of the active rivers. Eastern Bengal flourishes principally on jute and aman crops; if the periodical flooding is once obstructed, the phenomenal agricultural prosperity and rural density of eastern Bengal will disappear.

A planned economy for the decadent areas necessary.

The story told in the foregoing paragraphs is dismal, and it is surprising that Government has yet to launch on any planned programme for the recovery of western and central Bengal. A few irrigation works, executed not on any planned basis, have not improved the situation to any appreciable extent, and even irrigation water cannot be supplied throughout the year, especially when it is needed. Lands are still falling out of tillage, the decay of rivers is proceeding on and malaria is continuing unabated. When the problems are so grave and menacing, they call for urgent and bold action. The distribution of manures and improved seeds that is undertaken by Government is extremely inadequate for the purpose. The extent of Government indifference, in the task of checking the decline of agriculture in western and central Bengal, is appalling.

The various Acts of Government to improve rural Bengal are merely half-hearted attempts; they represent, more or less, the commercial instinct of Government.

Q. 74. These Acts, viz., the Bengal Land Improvement Act, the Bengal Sanitary and Agricultural Improvement Act and the Bengal Rural Development Act, embody half-hearted attempts of Government to improve the economic situation and rural Bengal. They are enacted not in pursuance of a policy; they represent, more or less, the commercial instinct of Government. Whatever benefit Government proposes to distribute by its beneficent works, it tries to recover the cost and something more from the persons benefited. In an ordinary commercial transaction where individuals bargain with individuals, such a profiteering enterprise is legitimate with the given basis of class relations. But the above Acts indicate that Government is more keen on profitable returns from their expenses sunk than on helping and improving the purchasing power of the people which should have been the best reward of a progressive Government. It is a mediaeval conception of public finance to insist on direct returns from Government expenditure; in fact, such a procedure involves loss in the long run.

The Bengal Land Improvement Act neutralised by restrictive provisions of the Tenancy Act.

The Bengal Land Improvement Act provides for loans to landlords so as to enable them to improve the economic position of their

country. On the face of it, the Act seems well conceived and the failure of the Act may be interpreted as an indifference on the part of landlords to avail of such a beneficial Act in the interest of the tenantry. But it is well-known, and we have indicated in our previous replies, that the incentive of landlords in improving the position of the tenantry is asphyxiated by the Bengal Tenancy Act. The landlord's right to have increased returns from his increased investments on the soil is circumscribed. The restriction was first put forward in 1859, and it continued to be tightened at every stage of tenancy amendments till the provisions regarding enhancement of rent are suspended in 1938. The lessons of agricultural economics are thus lost sight of; the need for improvement of agriculture was not emphasised in the Tenancy Act. Every improvement, made by landlords, requires to be registered under the provisions of the Tenancy Act, if it is to be put forward as a condition for enhancement of rent; even the discretion of Court in the matter of decreeing enhancement is great. With all these handicaps, which do not exist in any progressive tenancy legislation, landlords cannot possibly take loans for sinking in the improvement of agriculture, especially when conditions for re-payment of the loan are extremely rigid. We do not know if Government were really serious that the provisions of the Land Improvement Act would be liberally taken advantage of under the stringent conditions of repayment of loans, even when it is known and found that the Tenancy Act is putting all restrictions on the landlords' rights. Accordingly, the Act can only function under a better tenancy legislation.

The Bengal Sanitary and Agricultural Improvement Act stands discredited.

The Bengal Sanitary and Agricultural Improvement Act has not been successful in this province. The drainage schemes executed under the Act have not been successful, but Government is very keen on realising the cess imposed by way of recovery of the cost. In the Act there was a clear hint that distribution of cost would be spread over in proportion to the benefit reaped by the parties concerned, but, in fact, our Committee finds that the realisation of the cost does not *pro tanto* diminish with the decline of the benefit; even when there is hardly any benefit, the cess is realised to the great disadvantage of the parties in the so-called "benefited area." The extensive application of the Act is dependent on two fundamental conditions, that is, the monetary value of the benefit, promised in the scheme executed thereunder, must be greater than the quantum of cess to be paid by way of meeting the cost, and the benefit which will accrue must continue in the same proportion so long as the cess is to be realised. Both these conditions are not assured; hence, local authorities or private persons have not shown any eagerness to the Collector for the application of the said Act. Even

the Government is not sure of satisfying the public whom it proposes to benefit, hence the Collector who had the necessary plenary authority in initiating drainage schemes under the Act has not made, and perhaps could not make a liberal application of the Act. Thus, the policy behind the Act stands discredited; it was a policy of promising relief, not effecting it.

The Bengal Rural Development Act does not assure "benefit".

The Bengal Rural Development Act is the latest attempt of Government in improving irrigation in Bengal. Our Committee is not aware if any new irrigation schemes are being contemplated to be executed under the Act. We find that the irrigation tax which was optional under the old Act (optional in the sense that those who will apply for the irrigation water have to pay the tax) is made compulsory in respect of the "benefited area." The Act is unpopular because the rate charged is high; the supply of water throughout the year, especially in seasons when cultivators need it in the absence of rains, is not assured; the entire locality declared to be within the orbit of the Act does not get supply of water, and in places, it is reported, the canal water is exhausted and sands appear. In the Burdwan division the silt water which is most suitable for enriching the soil, pours in the Damodar during the rains and unless arrangements are made for storing the silt water and distributing it throughout the year in response to the needs of cultivators, the realisation of a high rate is injudicious and unfair. In ordinary times, the water that is left in the Damodar does not possess the fertility of the rich red water. Moreover, the Burdwan division has a normal supply of rain water (although greater supply is necessary for good cultivation), and the demand for irrigation water becomes insistent when the rains fail. The distribution of rainfall (in inches) of some of the eastern and western Bengal districts is given below to indicate that even in West Bengal cultivators cannot purchase water at a high rate throughout the year, although jute and aman can thrive only in regions of higher humidity and higher rainfall:—

	Distribution of rainfall.	
	Early rainfall (from February to May).	Rainfall (from June to August).
Burdwan	9	33·3
Midnapore	9·6	35·4
Murshidabad	8·5	33
Dacca	18·7	39
Mymensingh	24	47
Tippera	20·7	45·8
Faridpur	17·6	37·8

All this is given to illustrate that the West Bengal cultivators undoubtedly need the silt water and also more water during the rains; if a successive number of crops is to be planned, more water is necessary. Unless this liberal supply, especially at the period when they need most, is assured, no such irrigation rate can be popular. The promise of the liberal supply of irrigation water from June to August is not encouraging to raiyats. The Bengal Development Act does not promise the liberal supply of silt water, or even irrigation water, in times of need, but the realisation of the rate will not be laxed on that account. Government does not seem to be active in meeting the needs of silt water for the cultivators of West Bengal.

Our Committee, therefore, finds that Acts, mentioned above, do not satisfy the needs wherefore they were introduced; Government also does not seem alive to remedy the defects found in their working; the people cannot go on paying cesses when the benefits received are of doubtful value.

The need for nursing agriculture.

Q. 77. In our country there is no forward agricultural policy. Our agriculturists work not for profit but for subsistence; they work unaided in their humble way on unimproved land with unimproved implements. When seasonal calamities come, they are ruined. It is hardly recognised that the interest of the whole nation demands the nursing of agriculture. "Agriculture is not merely a way of making money by raising crops; it is not merely an industry or a business; it is essentially a public function or service performed by private individuals for the care and use of the land in the national interest; and farmers in the course of their pursuit of a living and private profit are the custodians of the basis of national life." Agriculture is a matter of national concern calling for deliberate and farsighted national policies, "not only to conserve the natural and human resources involved in it, but to provide for national security, promote a well-rounded prosperity, and secure social and political stability."

Agriculture and governmental apathy.

Ours is an agricultural country; our riches are bound up with the prosperity of agriculture; the low purchasing power of agriculturists sets a limit to industrial expansion; inefficiency in farming, incapacities of farmers and defective equipments are national calamities. With all this, Government has not taken to any progressive agricultural policy; the whole matter is left to private initiative. In this sense, the responsibility of the Government for uneconomic condition of raiyats can be taken in a two-fold sense: (1) in its negative aspect, that is, the indifference of Government and the non-pursuit of any policy; (2) in

its positive aspect, that is, some of the measures adopted by Government tending to the deterioration of the economic condition of raiyats.

No planned agricultural policy in the country.

In our answer to question 73, we have shown how prosperous districts have been converted into infertile and marshy swamps, and healthy areas into insanitary regions through changes in the course of rivers, unscientific embankments and roads, and railway lines without sufficient culverts. Lands in Burdwan and Presidency divisions are falling out of tillage; their productiveness has greatly decreased; raiyats are broken down by malaria; inefficient farming, which is inevitable in the circumstances, is causing more damage to the soil. The flow of prosperity has definitely ebbed. Government has not been sufficiently alive to these dangers; even if it is alive, no planned irrigation projects have been launched, no comprehensive public health scheme pushed through.

The prices of agricultural produce are falling, even below the costs of production. In the maze of distribution costs, the values of the commodities are lost. Government can improve the situation by raising the prices through various devices, and this aspect of the question is discussed in our answer to question 80.

Through the operation of the Tenancy Act, the following disquieting features in our rural economy have crept in:—

Unwholesome features of rural economy brought about by the Tenancy Act.

(*a*) Through a system of subinfeudation among raiyats, the average under-raiyati rent per acre has reached Rs. 6-3, whereas raiyati rental per acre in permanently settled estates is Rs. 3. The under-raiyat of the last grade who often pays a very high rate of rent and has the least security of tenure is the actual cultivator, and this "cottier system" is the creation of occupancy raiyats through the help of the Tenancy Act. "If landlords neglect raiyats, the latter plunder under-raiyats."[1] Low rent leads to low farming: the raiyati rental being low, the opportunities for negligent cultivation, sublettings and subdivisions are widened.

[1]"It is difficult to conceive anything more calculated to destroy the energies of a tenant than the consciousness that no amount of skill, industry or economy can improve his position, while idleness and prodigality can hardly make it worse. This is the state of a tenant who holds land at a rent rather higher than he can afford to pay, and who finds that each year adds to the amount of arrears due to his landlord. As long as he owes more than he can pay, he is equally in his landlord's power." (The landlord of the under-raiyat is the superior raiyat.)—*Vide* an essay on "The Tenure of Land in Ireland"—by the Rt. Hon'ble Mr. Longfield (Cobden Club Paper).

(*b*) Through the grant of the right of transfer to occupancy raiyats, agricultural backwardness is promoted in the following way: an outsider may purchase an occupancy right and settle the old tenant with under-raiyati right and necessarily at an enhanced rate of rent. Agriculture does not improve, but the status of the real raiyats is depressed. A raiyat becomes an easy victim to moneylenders and is exposed to the dangers of cheap and easy credit. The Census Report of 1931 gives the following figures which indicate the effect of the right of transfer, as exercised by the occupancy raiyats: cultivating owners and tenant cultivators were not distinguished in 1921; together they number 6,041,495 compared with 9,724,924 in 1921, a decrease of about 35 per cent. Agricultural labourers have increased by 50 per cent., and now number 2,718,939 compared with 1,805,502 farm servants and field labourers in 1921. There has been a considerable increase in the numbers returned as non-cultivating proprietors (from 390,562 to 633,834). To make the position clear, be it noted that the expressions, "cultivating owners" and "tenant cultivators," include those who cultivate personally or by hired labour, and the expression, "non-cultivating proprietor," if he derives returns from rent.

(*c*) Through the unrestricted right of subletting and subdivision, the holdings become uneconomic very swiftly, and the plight of agriculture becomes appalling and grave. Section 88 of the Tenancy Act permits the creation of unreasonably small and necessarily uneconomic holdings.

(*d*) The Tenancy Act does not make it obligatory for a raiyat to conform to the rules of good husbandry. He can neglect his cultivation, the only restriction being that he cannot render the land unfit for the purposes of tenancy. There is no provision for punshing negligent farming or rewarding efficient farming; thus, the incentive to better farming in Bengal is lost.

(*e*) A very injurious custom is the permitting of an accumulation of arrears of rent to remain due by raiyats. Thus, an efficient farmer paying rents punctually is placed on the same footing with one who habitually defaults. There is another serious evil: defaulting raiyats ultimately lose in the event of rent decrees, as both interests on arrear rents and costs incidental to suits are borne by them. A defaulting tenantry can hardly be efficient farmers: once the arrears begin to accumulate, the incentive to payment is gone, and in the long run they are knocked down by the dead weight of arrear rents. This is exasperating to landlord too. It is a blot on any good land tenure. Arthur Young, a great advocate of Irish peasantry, recommended the enforcement of punctual payment of rent: "I would advise him (landlord) to distrain without favour or affection at a certain period of deficiency.

This will appear harsh only upon superficial consideration. The object is to establish the system."

(*f*) The Tenancy Act takes every matter between landlord and raiyat to Court; it thus increases litigation and gives better revenue under Stamps but exhausts the resources of both landlords and tenants. The Tenancy Act sows the seeds of disunion between landlords and raiyats and transfers the attention from land to the struggle of powers between the two partners. In the meantime, the soil goes on deteriorating.

(*g*) The Bengal Tenancy Act is an open recognition of the principle that the welfare of raiyats is the concern of the State. Landlords are circumscribed at every stage: they cannot enhance rents; they cannot choose their tenants; their incentive to making improvements is asphyxiated; they cannot introduce scientific farming by acquiring compact areas from occupancy raiyats; they cannot enforce rules of good husbandry; they have to realise arrear rents through Civil Courts and can only take possession of the holdings by obtaining and executing sale decrees; in a word, landlords are placed in the background. The Tenancy Act invites landlords not to be improvers of the soil. But Government has not, on that account, stepped in. Thus the under-capitalisation and exhaustion of land have worsened the condition of raiyats.

Deterioration of economic condition of raiyats due to Tenancy Act.

The other defects of the Tenancy Act have been, more or less, touched upon in the previous replies. In this way the imperfect policy, as embodied in the Tenancy Act, has directly led to the deterioration of the economic condition of raiyats. The landlord-tenant system has nothing to do with this. The defects pointed out could easily be checked by a better tenancy legislation within the framework of the given land system. For every acre of land, the landlord gets only Rs. 3. But the normal yield per acre in Bengal is, as pointed out by the Bengal Provincial Banking Enquiry Committee, 12·4 maunds of cleaned rice, 16·2 maunds of jute, 12·2 maunds of tobacco. If an under-raiyat is rack-rented, that is not the fault of "landlord," as understood in Bengal, but of the superior "raiyat." If the price of agricultural produce is low, that is within the jurisdiction of the State to remedy it. If an agriculturist fails to realise fair price, that shows defects in distribution. It is true that for every acre of holding the landlord gets less, the raiyat gets more; it is equally true that the raiyat is exploited more by people dealing with the distribution of agricultural produce than by landlords who charge a very low rate of rent. If raiyats suffer from diminished returns from lands, are burdened with uneconomic holdings, and are disorganised and ill-equipped to improve production and distribution, landlords cannot be saddled with any blame for all this.

Factors necessary for a forward agricultural policy.

Our Committee has tried to show that the responsibilities for the uneconomic condition of raiyats are to be shouldered by Government, for their indifference in launching on a forward agricultural policy, and for enunciating an imperfect revenue policy complicating and stifling the free play of the prevailing land system. In suggesting modifications, our Committee begs strongly to point out that the defects of the Tenancy Act should be weeded out, and that a simple tenancy legislation with an eye to the interests of agriculture and to the free and smooth working of the prevailing landlord-tenant system should be codified. In the matter of enunciating a forward agricultural policy, the following points should be specifically dealt with:—

(1) Financing agriculturists at low rates of interest. Their real need is to buy finance cheap and sell produce dear.

(2) The fiscal organisation of the country and in particular assistance to agriculture by tariffs, quotas and subsidies.

(3) Better marketing of agricultural produce will widen the margin between costs and price.

(4) Under-capitalisation of lands and exhaustion of soil to be stopped; improved methods of agriculture with better sires, better seeds, better implements and more scientific rotation of crops and selection of money crops are essential for Bengal. An assured supply of water in places where rainfall is irregular is a matter of extreme importance.

(5) Schemes for the improvement of land, improvement in public health, and improvement of the human unit are vital for the country.

(6) The improvement of the transport system of the country, especially when the greater portion of it is of deltaic nature with its network of inland navigable rivers, streams and waterways, must be effected very carefully keeping in view the requirements of drainage, public health and agriculture.

(7) The price mechanism of the country is to be adjusted to equate supply and demand, to raise internal prices and to pave the way for greater purchasing power of agriculturists which is necessary for industrial expansion.

Our Committee does not propose to be exhaustive here; we are only indicating our plan in a rough outline. Modifications on the lines suggested may be fruitfully followed. In an agricultural country, it is prices, credit, and tenure that call for the foremost attention.

Average annual income of a raiyat.

Q. 78. The Bengal Provincial Banking Enquiry Committee has calculated Rs. 406 as the average annual income of an agricultural

family (consisting of five members). The average annual income from subsidiary occupations is estimated at Rs. 44. The total income amounts to Rs. 450 a year. The annual expenditure of the family is calculated by the Committee at Rs. 420 which includes all necessary expenses. There is thus a surplus of Rs. 30 per family. In the items of expenditure no interest on debts has been taken note of, although expenses on account of amusements and entertainment of relations have been shown. The holding taken for an estimate of income and expenditure was 5·2 acres which was manifestly an economic unit.

Income of raiyat dependent on many factors.

In the above case, the money incomes of the cultivating family were evidently calculated on the pre-depression prices of agricultural porduce. If we calculate on the depression prices, naturally money incomes will show deterioration whereas expenses on many items of expenditure excepting rents, cesses and rates will also show a decrease. To get at the accurate estimate we shall have to ascertain if there is a corresponding decrease in income and expenditure. If the decreases correspond, the percentage of profits will be the same, although the quantum of money available as income and for disbursement will be less. But if the income suffers more than the expenditure, cultivators are at a disadvantage. It is said that "during the period of economic depression (that is, since 1929) the income of agriculturists has come down by 50 per cent. and expenditure has also decreased by 40 per cent." There is thus a deficiency of 10 per cent. only. On the basis of the statement, it may easily be held that a holding of 5 acres will easily provide a desirable subsistence holding on a reasonable standard of life. In fact, much greater income than the one estimated by the Banking Enquiry Committee on the pre-depression price lists, is possible from a five-acre holding, if it is double cropped, or is subject to deeper cultivation with money crops. We shall have to repeat again that there are regional differences, and the average income of a five-acre holding in East Bengal will have no relation to the income derivable from the holding of the same size in West Bengal. To arrive at the average income of the holding of a raiyat, we shall have, therefore, to reckon (1) the situation of the holding, (2) the price list of agricultural products, (3) the size of the holding, (4) the nature of crops grown, (5) the method of cultivation, (6) the rotation of crops or the successive number of crops, (7) the supply of water (from rains, or wells, or irrigation canals or from rivers through inundation), (8) the sinking of capital, and (9) the efficiency of labour. The income of a raiyat is dependent on many factors, and it will rise or fall according as all the necessary factors are exploited or unutilised.

We have already shown that a holding of 3 to 5 acres can be cultivated in a way as to provide for a living on the given standard of life

for a cultivating family. Those who have less can hardly maintain themselves. To find out the percentage of cultivating raiyats possessing more than 3 acres, one is to note the following factors: (*a*) the actual cultivators are generally under-raiyats and bargadars, (*b*) they may possess 3 acres split up into uneconomic units, and in that case they will not be able to live on 3 acres, (*c*) the subdivision is continuing unhampered by any social, economic or legislative force. Our Committee is, however, not in possession of the figures indicating the percentage of cultivating raiyats possessing 3 acres or more in compact economic plots. It is only possible for the Governmental or aided organisations to compile such statistics.

Q. 79. It is true that the record-of-rights, prepared at an enormous cost borne by landlords and tenants, does become defective if it is not corrected after a short interval of time. Some tenants die, mutations of holdings are not effected, and the perfection of the record is thereby impaired. But at the same time the preparations of records on an extensive scale should not be made frequently, as that will involve much expenditure.

Our Committee suggests that in the case of change of any tenant, the President of the Union Board and the local agent of the landlord may record a change jointly and send it to the Collector who, in his turn, may get the records corrected accordingly. The landlord will be entitled to a certified copy of such change effected in the record. That will minimise the trouble arising from the imperfection of records.

Why cultivators have very low income.

Q. 80. The increase in the income of cultivating raiyats does not yield to any specific measure, nor is there any short cut to achieve the purpose. The income of our cultivators is seriously curtailed, because (1) the costs of production and the prices received for agricultural produce are out of line, and (2) the holdings are getting uneconomic. When low prices appear to be at the root of trouble, it is generally considered that the price system is defective. It is the work of price to equate supply and demand, but this is not being done; production and consumption are not in line with each another.

Agricultural prices depend on world conditions.

Agriculture in Bengal cannot be divorced from world conditions, and the rescue of agriculture depends on a steady increase of demand for its products. Bengal's money crop is jute, and she produces rice mostly for her domestic consumption. In 1925, the income derived by the cultivators from jute amounted to more than Rs. 83 crores but in 1930, the first year of the last depression, it shrank to Rs. 24 crores.

She is not developing new commercial crops in the same way as the Punjab has found a new crop in cotton. Accordingly, it is suggested that Bengal should be divided into economic zones for developing suitable money crops with greater industrial utilisation of these crops instead of concentrating upon one crop. It is said that jute is fetching lower price because of its over-production. "Over-production of jute does not mean that its supply is excessive from an absolute point of view. It means that the supply is such that it cannot adjust itself to demand at a price which brings normal profit for the raiyat." Accordingly, the increase of the income of the cultivating raiyat has its relation to world conditions; it emphasises the need for the cultivation of more money crops.

The reasons for fluctuations in price.

The price-level, as is well-known, is "the outcome of interaction between monetary and non-monetary factors, and that the recent world-wide fall of prices is best described as a monetary phenomenon which has occurred as the result of the monetary system failing to solve successfully a problem of unprecedented difficulty and complexity set in by a conjunction of highly intractable non-monetary phenomena." (Macmillan Committee's Report.)

Price fluctuations exercise most pernicious influence on agriculture. The main causes of price fluctuations are variations in the value of money, variations in demand, variations in supply. Fluctuations in the value of money can only be stopped by Government; a cultivator can only, to an extremely limited extent, influence the demand. It is only the supply side which is within the control of the farmer. Even the supply side is limited by weather conditions, seasonal production, market conditions, farmer's finances, etc.

Our Committee does not intend discussing all the specific points in connection with the increase of the income of cultivators in details, but it is only pointing out that the question can only be dealt with by reference to all the factors governing the laws of market where products are to be bought and sold. The means suggested in the question under discussion are only illustrative; they do not, however, touch on the fundamental questions, such as the price system, fluctuations in the value of money, variations in demand and supply, and other matters connected therewith.

Agricultural prices to be raised.

Raising the level of agricultural prices is a delicate and difficult problem. The chief methods available are bounties, subsidies, or restriction of supplies by various methods. The restriction of supply can be divided into two parts: (*a*) imported, and (*b*) home-produced.

The measures for the restriction of imported supplies are prohibitions, tariffs, quotas, import monopolies and exchange depreciation. An exhaustive discussion of all these remedies is not possible here, but we beg to impress the Commission that the consideration of the question of increasing the income of cultivators is not a simple one, and that it involves a discussion on various points other than those given in the question. Our Committee is suggesting all these points so that a comprehensive view may be taken of this vital question.

Ways of ensuring better returns for cultivators.

There are several ways in which better returns for cultivators could be achieved: (1) by more efficient methods of distribution, (2) by stronger bargaining power on the cultivator's side, (3) by getting better prices, (4) by increasing the consumption of produce, (5) by reducing costs of production, (6) by improving the quality and quantity of production. Along with the question of better returns is bound up the question of efficiency in farming which depends on the following factors: (1) the character of the land, (2) the character of the raw materials with which the cultivator works, (3) the capacity of the cultivator.

The fundamental problem of credit.

There is another important factor, and that is the scarcity of capital which results in under-capitalisation of lands. Agriculture is an industry of slow turnover. Means must, therefore, be found to finance "the interval between sowing and harvest," and the peasant, with his small resources, cannot normally provide for them. In all countries where cultivation is in the hands of tillers with no reserve capital, the fundamental problem is that of credit, although unfortunately it is not considered sufficiently important as to form "one of the means of increasing the income of cultivators." All the "means" that have been suggested can only be attempted, if the scarcity of capital is removed by any outside agency. The need of the peasant for intermediate and short term credit is always urgent. "Unless exceptionally fortunate, he requires it every year and, in a considerable number of cases, throughout the year. He gets it where he can, when he can, on what terms he can. His necessities are desperate." With these introductory observations, our Committee proceeds to discuss the points referred to in the question under reply.

Better farming is bound up with raiyats' economic condition.

The task of the improvement of our agriculture is bound up with the question of improving the economic conditions of the raiyat. Primarily, it is a question of increasing the capacity of the land. The raiyat is a potential consumer of a larger portion of his own produce

than he is at present. The raising of the fertility of the soil is essential for our country. "Under the hot conditions prevailing, bacterial activity proceeds at a rate unknown in temperate climates, and the visible sign of that activity is loss of humus. Deficiency of organic matter is the outstanding feature of the soils of India."[1] It is a deficiency which it is difficult to make good, for cattle in our country return little to the land. They are not bedded down; straw is consumed as fodder, and the droppings made into cakes which are dried and burned.[2] These form the main fuel in a country where natural reserves are wholly inadequate. Unless we can provide for an alternative supply of fuel within the purchasing power of the raiyat, the agricultural problem in this matter remain unsolved.[3]

The essentials of good farming.

Good farming in the West increasingly rests on chemistry, biology and mechanical invention. At this stage, it will be an idle talk to show the example of the West and force our cultivators to take to improved farming on similar lines. With large population the multiplication of dwarf holdings is, in the absence of a deliberate policy to counteract it, the inevitable consequence. It is said that the yield of rice per acre is 863 lb. in India, 2,350 lb. in Japan and 1,750 lb. in China. This indicates the low fertility of land. The prevalence of small sizes with a dense population requires systematic irrigation, deeper cultivation, better sires, improved seeds, double cropping (even sowing one crop between the rows of another as is done in China) and the minute attention and patient skill of the individual cultivator. Better tillage demands stronger cattle, and stronger cattle will only result when fodder supplies are not stored with the inefficient, and when the importance of the bull receives due recognition. An uneconomic holding places a check on fodder crops, and that handicap, in its turn, results in poor stock, and inability to support vigorous stock means absence of a market for well-bred cattle. All these difficulties are connected with the improved methods of cultivation.

In our agriculture, we do not dream of progress; we are satisfied with stability, and that stability cannot be achieved without bringing in increased return from land. In the West the primary concern is to secure the maximum return for the minimum effort. But in our

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[1]Vide "Encyclopædia of Scientific Agriculture", edited by H. Hunter, Vol. I, p. 71.

[2]Fertility is conserved with great efficiency in China by the careful conservation of animal, vegetable and human refuse; and its restoration to the soil.

[3]"The agricultural solution of stall feeding or, as in Egypt, the tethering out of cattle, raises the equally difficult problem of the addition of specific fodder crops on holdings already too small. Green manuring raises problems similar to tethering, and is, moreover, subject to risks in a country with a precarious rainfall. Artificials, too, are practically unknown, and it is questionable whether a return commensurate with their cost would be obtained so long as the humus problem remains unsolved."—Encyclopædia of Scientific Agriculture, edited by H. Hunter.

country, land is under-capitalised and over-manned. A more intensive use of labour may be attempted, but the exhaustion of land is to be stopped. It may not be possible to bring in science for mechanical cultivation, but some kind of nursing of land by irrigation and manuring by animal, vegetable and human refuse, and better and deeper cultivation by stronger cattle, improved ploughs and better seeds shall have to be taken to. An increase in the yield cannot be possible without improved methods of cultivation. Since land is scarce, the last ounce of nutriment out of such land is to be squeezed and the exhaustion is to be stopped by suitable devices. Our Committee, however, has not shown any ambitious scheme for improving the methods of cultivation, although we know that an increase of the output per cultivator, and not merely per acre, determines the standard of life of the agricultural population. "Prosperity is a condition, not of acres, but of human beings." But situated as we are with dwarf holdings and dense population, the increase of the output per acre is more necessary in the beginning; the human waste at which the increase of the output per acre will be obtained may be thereafter calculated, and also removed, by a more comprehensive scheme. That is incapable of a spectacular solution by any short-cut method.

Agricultural planning contemplates no wastage of man-power.

In our scheme of improved methods of cultivation, we have shown that attempts should be made to raise crops in succession, and that will not give sufficient slack season as our cultivators ordinarily enjoy at the present time. If we are to plan out our agriculture at all, we should see that cultivators are as little diverted to other occupations as possible; they should be made to be specialists in cultivation, and there should not be any slack season at all. All this will require experiments and researches. For, the crops are to be raised in succession without injury to the soil. If this can be arranged, subsidiary occupations may be availed of by surplus labourers in the villages. The development and fostering of cottage industries can be done either by the State, or by Co-operative Associations, or by some statutory organisation which will find out the different zones suitable for different cottage industries. This is a different matter entitled to separate treatment in the matter of rural economy, and raiyats should not be encouraged to look up to cottage industries as subsidiary occupations to fill up their financial deficiencies. If women or other non-working members of the cultivating families divert their attention to subsidiary occupations and cottage industries, that is beside the point at issue. Our Committee is of opinion that if the State is really serious in the matter of planning agriculture, efforts should be put forth to make agricultural operations remunerative by themselves. In the villages there is a good deal of surplus labour which may be utilised in subsidiary occupations and cottage industries.

Possibilities of co-operative farming.

Co-operative farming has undoubtedly many good features, but its practical operation in Bengal is to be studied very carefully. A cultivation society, based on co-operative principles, may be started. The society will take over the land, either on rent or on share-tenancy or by purchase. The land taken over may be farmed collectively; that may be taken as collective farming. The land may also be parcelled out to be cultivated individually by members. It may be said that a landlord would lease his estate more easily and more cheaply to a society than to "several small impecunious farmers." The society would provide for the members the advantages of collective purchase and marketing; it would obtain better credit facilities, and it would be the intermediary through which Government may give the subsidy necessary to support any scheme. In that case, the landlord will get his rents more regularly; Government can establish touch with the tenantry through the society. The landlord shall not have to deal with individual raiyats, and that is a burdensome task. Sir F. A. Nicholson, a distinguished authority on the problems of Indian rural economy, said: "It is impossible for a Government to influence individually millions of petty peasants; they are individually too isolated, too suspicious, too shy to accept new ideas or to undertake experiments in new methods; similarly, they are too poor, too powerless to produce the best products, to get the better of the middlemen and the best of the markets. There must be some organisation which enables Government to act upon a body of men at once and to serve as intermediary between the Government and the individual: an organisation which can be advised, educated, reasoned with and listened to, which will discuss together the suggestion of authority, and will through its better educated or bolder members provide intelligence to absorb new ideas, find courage and funds to attempt new methods and combine both for the improvement of products and better sale of the same." In this way, a co-operative cultivation society may function as a good medium of transmitting the services rendered by Government to individual raiyats and as an organisation to raise the bargaining power and the credit value of the members.

Obstacles to co-operative farming.

But the obstacles should not be under-rated. In a landlord-tenant system, raiyats belonging to different landlords should not form themselves into a society, because that will create an impossible state of things. If there are grades of raiyat, a farming society on co-operative principles cannot be organised, because different members may have different proportions of land with different grades of rights, but they will all have to be placed on the same status. All members of a co-operative society should work; no one can sit idle and live on

unearned income. In Bengal, all the raiyats shall have to be cultivators and all grades shall be merged in one grade before a cultivation society is attempted to be started on collective or co-operative principles. If a member takes land from a co-operative society and gets it cultivated by an under-raiyat, the principle of a co-operative cultivation society will be defeated. Moreover, the rights and privileges will accrue to the Society, and the members will be protected by it.

Co-operative farming in Italy.

Cultivation societies on co-operative lines are very much encouraged by Government in Fascist Italy. Our Committee examines below the organisation of a typical society[1] in Italy so that a complete picture may be obtained for fuller appreciation of the methods suggested. The objects of a co-operative society of agricultural labour and cultivation are: (1) to purchase, to rent or to obtain in any other manner lands to be cultivated collectively ("conduzione unita") or individually ("conduzione divisa"), but with unity of direction, (2) to undertake agricultural works of all kinds, such as reclamation, transformation, etc., (3) to obtain for the members the necessary credit for the development of their agricultural activities, (4) to aid members in the purchase of agricultural requirements and in the processing and sale of their products, (5) to promote the construction and the improvement of members' houses and farm buildings, (6) to improve the moral and the material conditions of members, (7) to give rural credit for the attainment of the society's aims. All workers who devote themselves to agriculture may be members, provided they are of good character. The funds consist of the following: (*a*) unlimited number of shares of 100 lire each, (*b*) entrance fees, (*c*) ordinary reserve funds, (*d*) extraordinary reserve funds, (*e*) special provident, mutuality or educational funds, (*f*) any donations to the society for social purposes. The surplus is allocated in the following way: (1) At least 20 per cent. to ordinary reserve fund, (2) 10 per cent. for aiding members in need, (3) interest on share capital at a rate not exceeding the legal rate, (4) any amount left over to the reserve fund. The control and administration are also democratic, and five in number are nominated even from among non-members by the assembly consisting of the members of the society. The reclamation of malaria-infested marshes outside Rome has been done mainly by those co-operative societies. In Italy the agricultural unions which usually go by the name of "consorzi agrari" have shown splendid results. They are open to all landowners and farmers of good character; agricultural co-operative societies and other bodies are also admissible to membership which is ordinarily restricted to a given

[1]Vide "Agricultural Co-operation in Fascist Italy", by F. Cotta, published in 1935.

area. The success of these organisations has been due to the fact that they have realised the fundamental requirements for the economic success of agriculture and they have supplied those requirements which are: (*a*) good and cheap seeds, manures, implements and good cattle; (*b*) scientific and up-to-date cultural processes; (*c*) easy and cheap credit; (*d*) orderly, organised and controlled marketing of the produce.

Collective farms of Soviet Russia.

We meet with collective farms in Soviet Russia.[1] The "Kolhoz," as it is known, is a co-operative association, legally incorporated and with a constitution defining in detail its functions and purposes. It enjoys full powers of internal administration, the final authority being vested in the general meeting of members. The two types of "Kolhoz" of consequence are the commune and the artel. In the commune "all individual income-yielding property disappears, and all productive resources: land, implements, stocks and buildings, are held in common. In the commune the only personal possession a man has or may have are his immediate personal belongings, such as clothes and what savings he may have made out of his wages and out of the share profit that may at the end of the year be disbursed." Stalin and his followers disavowed any aim to draw the peasant into "a completely communised scheme." The artel is popular now where peasants pool their land, their work, stock, implements, their farm buildings and their accumulation of savings. But they may maintain their individual homes, and may keep a cow, hen, geese, ducks, pigs, sheep and goats, though in numbers which must bear a fair proportion to their personal needs. If they happen to have a surplus of produce they may dispose of it, preferably to the co-operative, or in the open market. All members receive wages which are mapped out tentatively at the beginning of the year; wages are scaled according to the type of work a member performs and the degree of skill with which he performs it, though in no event must the highest wage be more than double that of the lowest. The "Kolhoz" may not dispose of any of its produce to private parties; it must sell to the Government. The Governmental dues are now definitely fixed by regulation and agreement at the beginning of each year; so much for the agricultural tax; so much for the hire of the tractors; so much for any other agricultural machinery supplied; so much in payment for the seed, for fertilisers and for anything else provided by the authorities beyond advice, encouragement and special help in trouble. The Moscow National Kolhoz worked out a scheme (for the year 1930) for the division of income which will go to explain the ideology guiding the plan of collective farms; five per cent.

[1]Information about collective farms in Soviet Russia principally taken from "Soviet Communism" by Sydney and Beatrice Webb and "Red Bread" by Maurice Hindus.

of the income is to be set aside as dividends on the properties that the individual members have turned into the "Kolhoz"; taxes, insurance, reserves for possible mishaps and for seed are figured out on the basis of the prevailing conditions and needs of the "Kolhoz" and provided for accordingly; ten per cent. of the remainder (that is, deducting the sums already mentioned) is appropriated for the indivisible fund; five per cent. for social needs; special appropriations for special needs; the balance is distributed as wages and profits among the members.

In co-operative farming rights of individual raiyats to be subordinated to collective interests.

In the scheme of co-operative or of collective farms which our Committee has discussed in greater details, it is true that the members, collectively, are the masters of the situation, but in their individual capacities they possess very little rights. In our country, undue emphasis on individual raiyati rights is the very antithesis of co-operative or collective farms. We have shown in our previous replies that such an undue emphasis is all to the prejudice of agricultural improvement. In all the latest experiments in land settlement, be they co-operative farming or collective farming or small holdings movement, or peasant proprietorship, individual raiyati rights are always subordinated to the interests of farms and farming. Moreover, in the acquisitive and competitive order of society which is based on the economics of capitalism, collective farms can hardly find a room. In the collective economy man is a social being and not a self-interested individual; labour as a consumer becomes a claimant to share, according to his need, in the social dividend which will come out of production. In a capitalist system, there are many owners, hence many standards; in a socialist economy there is the single owner, hence the single standard of social need. The co-operative farms do, of course, recognise the principles of capitalist economy but in a country of uneconomic holdings, dense population, individualistic laws of succession, non-cultivating and non-resident raiyats, and gradations of raiyats with different rates of rent, the engrafting of co-operative farms on the existing state of land tenure, rendered complicated and unscientific by an imperfect and harmful tenancy legislation, is not a simple task; the question of collective farms is unsuited to the fundamental basis of class relations. Co-operative or collective farms may also throw the question into the forefront that there is a surplus agricultural population above the agricultural needs. All this will invite new problems for solution. Our Committee thinks that the small holdings movement is more practical and more suited to the needs of our country, although there is no reference to it in the questionnaire. Our Committee is not, however, disputing that collectivisation or co-operation as a method of

farming will bring in better returns to the cultivators than the existing individualistic farming on dwarf holdings.

The need for co-operative marketing in this country.

The farmer in our country not only sows and reaps his crops, but has to see to the financing of his business and marketing the produce. In a country where the family farm is the prevalent type and where capital and reserves are small, credit, tenure and marketing are vital matters. Those who produce should not be brought out to market products, and some organisation should be planned out to do the work on behalf of producers in conjunction with the interest of consumers. Of the three main types of economic systems, co-operation is "a synthesis of the laissez-faire system of economy and of a planned economy." "Its natural range of application or latitude extends from a position in which private initiative and freedom of action are preserved in a large measure to one in which the member sacrifices some individualistic functions in co-ordinating his efforts with others to attain certain ends. Group interests are recognised as superior to individual interests. Theoretically, the form or organisation and the principles of co-operation preclude any individual from attaining these ends at the expense of a fellow member. Group action may result in progress, inertion, or regress, but the movement is always unified and each member shares in the fortunes of the association in proportion to his contributions. The general objective of associations is to improve the status of members in a manner superior to that attainable under other economic systems. The plane of living is to be elevated through collective action and collective responsibility rather through individual effort as laissez-faireism proposes."[1]

The immediate problems which co-operators seek to solve by association are, (1) to harmonise production and consumption, (2) to avoid duplication and waste of human resources, (3) to prevent men from exploiting one another by directing their activities in such a way that each mutually improves the status of the other, (4) to eliminate idleness and dissipation, (5) to assure the benefits which result from combined effort for the general welfare of society.

Lessons from co-operative marketing in America.

From a study of the systems of co-operative marketing in America the following lessons may be drawn:—

(*a*) Marketing must be on the commodity basis and must not be local in character. "Organisation to market by commodity rather than

[1]"Economics of Co-operative Marketing", by H. H. Bakken and M. A. Schaars, p. 142, published in 1937.

locally, organisation around the point of consumption rather than the point of production, organisation to control the movement of the product to market, organisation to merchandise the product, these are the cardinal points in the commodity plan."

(*b*) The organisation plan will be preferably on the federal basis. Growers will contract to deliver the particular products to the local associations of which they are members. The local association will have a warehouse. It is a non-stock and non-capital plan with a subsidiary stock organisation owning the warehouse where the products are pooled, graded, packed, loaded into cars and distributed. There will be a District Association with affiliated local associations. The packed and graded products of the local associations will be distributed under the advice of District Associations to favourable markets which will be guided by information received from the Central Association. The Central Association provides the selling machinery in the market and acts as distributor of market information.

(*c*) Co-operatives require capital for organisation, physical facilities, operations, and in some cases for financing production on farms. The capital needs are provided for in the following ways: (1) Direct methods: sale of shares of common stock; collection of membership fees; sale of preferred stock; sale of bonds; requiring members to execute promissory notes to the association; borrowing (from members and non-members, from central co-operative organisation, from existing marketing agencies, from local banks or large commercial banks, from Government agencies); (2) Indirect methods: deferring payments to patrons, deduction of definite amounts from members' returns; accumulation of surpluses, reserves and sinking funds; system of assessments (so much per cow, or so much per acre); use of sight drafts; use of trade acceptances; creating subsidiary companies and selling stock in the same; delaying payments of bills. Co-operative marketing associations obtain capital funds from members, non-member investors, credit agencies and business operations.

(*d*) A co-operative association has legal contract with producers to deliver products. If the member violates his contract, the association may obtain redress by obtaining liquidated damages, an injunction and a decree for specific performance.

(*e*) Co-operative associations are operated as semi public bodies. The Federal Reserve Banking system has been organised in a way which does not offer obstacles to accepting warehouse receipts as proper collateral for bankers' acceptance. Loans to co-operative associations on standard, liquid security are made easily obtainable. The Federal Reserve Board can make liberal provisions for financing of agriculture. The programme laid down in the Agricultural Marketing Act of 1929

in the United States, which encouraged farmer-controlled co-operatives, indicates the extent of Government assistance in the matter.

(*f*) The management is undertaken by experts and the organisation is of producers only.

Co-operative marketing in England.

In England the Agricultural Marketing Act of 1931 conferred powers upon a proved majority of growers to coerce the minority into a specified course of action. The Marketing Board is empowered to fix prices of the commodity selected, divert products to factory or other purposes, to deflect supplies into particular channels, to refuse recognition to certain qualities of goods and to select selling agencies. The Marketing Act of 1933 empowered the Board of Trade to restrict imports of any agricultural products subject to the provisions of the 1931 Act, the primary objective being the attainment of a remunerative level of prices. The policy has thus led to the establishment of monopolistic marketing organisations, subject to Government control, and naturally restricts the field of genuine co-operative enterprise.

Co-operative marketing in Italy.

In Fascist Italy the Government controls directly the marketing of rice, tobacco, and beetroot. For the orderly marketing of other products, it depends largely on "Consorzi agrari" and their Federation which stabilises prices and raises them when national production requires it. The Fascist Government is ready to subsidise any undertaking of public utility.

The need of Government help in co-operative marketing.

Our Committee has made a detailed examination of the principles of co-operative marketing only to indicate that without Government subsidy, interference and patronage, co-operative marketing associations cannot possibly succeed, and without the legal rights and financial privileges they may be overpowered by private dealers who will lower prices, give higher commission to retailers and adopt other methods of defeating the co-operative associations. Moreover, our farmers are illiterate; they will not willingly sign contracts; they may be influenced by designing non-members; they will not understand their own interests clearly; there are few experts who are competent to run such organisations. Situated as we are, the marketing organisation on the lines, followed in the English Agricultural Marketing Acts of 1931 and 1933, is likely to be of more practical help to our farmers. But the success of all marketing schemes postulates the co-operation of all other provincial units and the active co-operation of the Government of India. British farmers are fortified by the Marketing Acts, quotas and tariff

regulations; the position of our farmers cannot also be improved merely by the efforts of the provincial Government. If, on the other hand, it is postulated that local co-operative societies dealing with various kinds of commodities will merely function as shoppers for the local area, and as *aratdars* to establish contact with the merchants, our Committee does not take such scattered societies seriously as to make agriculture remunerative in an effective manner. We have said all this to indicate the enormity of the task and to find out ways how can agricultural produce be efficiently marketed to earn better prices on a solid and stable basis.

Cattle insurance in Italy.

It is true that the insurance needs of the farmer are always great. We may make our agriculture prosperous, but accidents may, and do, happen, and unless there are insurance facilities the farmer labours in vain. Epidemics appear and take away the cattle causing irreparable loss to the husbandmen. A cattle insurance society, based on the principle of mutuality and formed for an unlimited period, may be started to indemnify members within the limits fixed by rules for loss caused by the death of cattle belonging to them and to promote hygiene and prevention of infectious diseases and to undertake whatever else tends to the betterment and the preservation of the cattle insured. The guiding principles of an Italian Co-operative Cattle Insurance Society[1] are the following: (1) It must limit itself to a small area with a population not exceeding, say, 5,000 inhabitants. (2) It must fix annual premiums or contributions within the limits prescribed by the Minister of Agriculture. (3) It must observe the principle of free service in administration, the Secretary and the Cashier excepted. (4) It must give compensation for actual loss only. (5) The societies must form federations for re-insurance, for spreading and averaging risks.

Crop insurance more useful than cattle insurance.

Our Committee is of opinion that cattle insurance will be useful to our farmers, but more useful will be the method of crop insurance. In America the form of crop insurance available to the farmer has been insurance against loss or damage by hail. In our country the form of crop insurance will be against loss or damage of crops by drought or flood which cause scarcity and famines. "True crop insurance must give protection against all hazards which are beyond the farmer's control." Regarding the determination of the amount of insurance

[1]For the details of management and constitution of such cattle insurance societies, *vide* F. Cotta's "Agricultural Co-operation in Fascist Italy", Chapter VIII, published in 1935.

per acre, Dr. H. C. Taylor observes: "Regardless of whether the insurance is written on the value-return basis or on that of yield, the guaranteed return will doubtless have to be well below that of the average expected return if the moral hazard is to be properly safeguarded against. The basis for determining the proper amount of insurance per acre is probably to be found in the past performance of the farm in question, considered in connection with the past record of the farmer, in case he has recently come into control of the farm he now occupies." Our Committee thinks that crop insurance against all hazards is more important than cattle insurance.

Poverty of agriculturists not due to pressure of population.

Q. 81. Our Committee is aware that the density of population in Bengal per square mile is very high, and that the pressure of population on land is unduly heavy, but we cannot, on that account, subscribe to the view that it is one of the main reasons of the poverty of agriculturists. If agricultural produce would have fetched better prices, holdings economic, methods of cultivation improved, financing of agriculture scientific, marketing arrangements more suited to the needs of cultivators, deterioration of land in the Burdwan and Presidency divisions checked, and the human and cattle units more efficient, Bengal's agricultural land would then have cheerfully accepted the present pressure of population. To trace agricultural ills to a dense population is to shift our attention to a comparatively less important thing, although our Committee believes that the improvement of the standard of living necessitates the curtailment of the rate of growth of population. We do consider that a large population is not a national asset; but if the growth of population is checked and the exhaustion of the fertility of soil continues through various ways due to human negligence and natural causes, we cannot expect to see a brighter countryside. This view of things should receive clear recognition and appreciation before our Committee proceeds on to discuss the density of population in relation to the poverty of agriculturists.

Density of population in the districts of Bengal.

The density of population is incredibly high in eastern Bengal. The world's highest records of rural density are observable in the Dacca district, and the density of persons per square mile in some of the thanas is given as illustration: Narayanganj 3,010; Tangibari 3,044; Lohajang 3,228; Munshiganj 2,329; Shirajdikhan 2,066. In the districts of Faridpur, Bakarganj, Tippera and Noakhali, the density is of more than 1,300 persons per square mile.[1] Burdwan,

[1]The density of population in the three regions in China (in northern, the Yangtse delta and the Canton delta) does not exceed 1,000 to the square mile. In the plain of Chengtu, which is intensively irrigated, the density does not rise beyond 1,700 to the square mile—Dr. Radha Kamal Mukherjee.

Nadia, and Jessore are the districts in the moribund delta and their density of population per square mile is 583 and 531 and 576 respectively. Hooghly, 24-Parganas, Khulna—they are the districts facing the sea and their density of population per square mile is 938, 516 and 595, respectively.

The relation of population to agriculture.

The variation of the cropped area has relation with the variation of population. The following table will show the percentages of variations :—

	Districts.	Percentage variation of cropped area (1901-31).	Percentage variation of population (1901-31).
	In the moribund delta.		
1.	Burdwan	−40	+3·7
2.	Nadia	−7	−8·1
3.	Jessore	−31	−7·2
4.	Hooghly	−45	+6·2
	In the active delta.		
5.	Dacca	+57	+28·9
6.	Mymensingh	+19	+28·5
7.	Faridpur	+13	+21·8
8.	Bakarganj	+21	+27·1

The remarkable decrease of the cultivated area in the moribund district of the delta, together with the deterioration of fertility of soil and the health of the people, go to show, as we have indicated in our previous replies, that agricultural depression and the poverty of agriculturists are not caused principally by the high density of population; there are other vital causes related thereto, and in a scheme of reconstruction, nation's attention should not be taken away from those factors. Our Committee, is, however, not minimising the evil effects that a large population has generally on the resources of the country; large numbers with high birth-rates which are accompanied by high death-rates often handicap the growth of agricultural prosperity, because agricultural labour in our country tends to be inefficient and of low vitality.

The view of the Superintendent of Census Operations (1931)—why Bengal can maintain a larger population.

Mr. A. E. Porter, Superintendent of Census Operations, Bengal, in 1931, has maintained that Bengal can support a larger population and he assigns the following reasons in support of his contention :—

(1) Bengal has undeveloped resources which are not exploited efficiently.

(2) The soil is probably unlikely to deteriorate further, and the general opinion about areas, such as Bengal, is that a dead level of yield was reached long ago and is conditioned by the rate at which plant food constituents are made available by weathering. The use of manures together with an improvement in the implement of agriculture would increase the output of the soil (at least 30 per cent).

(3) Of the total area cultivable, only 67 per cent. is actually under cultivation. (In the Burdwan division only 60·7 per cent. is under cultivation; in the Presidency division 55·7 per cent.; in the Rajshahi division 63·6 per cent.; in the Dacca division 89·3 per cent.; and in the Chittagong division 62·5 per cent. These figures are taken from the Census Report of 1931.)

(4) Inefficiency of labour, that is, lack of capacity on the part of the people to mobolise the physical, intellectual and moral forces of the country and to organise land and capital effectively for national production.

Mr. Porter is satisfied with quoting Raymond Pearl because he has pointed out that the increase of population need not necessarily increase the misery in the world since "the orderly evolution of human knowledge justifies us in assuming that science will keep pace in discovering means of expanding opportunities of human subsistence." Indirectly Mr. Porter has thus cast a severe indictment against Government in not diverting science to the improvement of the fertility of Bengal's soil and to the necessary increase of the means of subsistence. We have seen that lands in the Burdwan and Presidency divisions are falling out of tillage, and that the low yield of land, the unremunerative price of produce, the bad health of the people are leading to agricultural depression and rural exodus. If everything is done to ensure better returns from land, to improve public health, and to apply capital and science to providing for better farming, there is no doubt that Bengal can support a larger population even with an improved standard of living. But in the absence of a plan to bring about agricultural prosperity, the low level of subsistence and farming, accompanied by the growing rate of population, will make and are making the situation desperate.

Population to be considered relatively to agricultural needs.

To find out the percentage of surplus population in respect of the agricultural needs of the country we are first to know if the given methods of wastage and deterioration will remain unattended to. If they are not touched and improved, the present number of population is large; the rate of growth is alarming. The regional distribution of population is unsatisfactory, East Bengal having high density and West Bengal a comparatively low density, although this disparity is

conditioned by the differences in their deltaic nature. Taking as an average for Bengal and with the given standard of living, the cultivating families of 6 millions (each consisting of five members) do not show any surplus even in respect of the 28 millions of acres cultivated. In that event, every family can get more than four acres of holding which under improved methods of cultivation including better supply and control of water, better manures, seeds, sires, and implements, improved and more efficient labour, are adequate for the purpose of their subsistence on a reasonable standard. But this average is deceptive: the dispersion of holdings is unscientific, many of them being bound up with uneconomic holdings; the exhaustion of the soil and the deterioration of the cattle and human units are going on unhampered. In the circumstances, the question of population is looming large as it is bound to, and the rate of increase which is alarming is undoubtedly hampering the progress of agriculture by involving great wastages in human labour. The agricultural needs of the country are not showing a surplus; it is the agricultural state of the country which is showing a surplus, and that is all to the discredit of any progressive Government.

Methods for relieving the pressure of population.

Q. 82. In the matter of relieving the pressure of population on land, there are two ways of approaching the question: (1) the ways of checking the rate of increase of the population, and (2) the ways of the absorption of the agricultural population in the other avenues of employment.

Measures to check the rate of increase.

There are drastic ways of checking the rate of increase, possible in a planned scheme under a dictatorial regime. The Marxist school does not attach importance to the growth of population and even the Malthusian and neo-Malthusian doctrines are ridiculed as attempts of the "bourgeoisie" class to maintain and improve the standard of living. There may be political considerations when the growth of population may be desired. Our Committee is leaving aside all these considerations, practical and theoretical, and confining our remarks to the question of popultaion in our province. The following measures which are not very radical may be adopted to check the rate of increase:—

(1) Early marriage is held responsible for a large population. The younger the couple, the larger the average family, because the most productive period for a woman is between 15 and 20 years. The Malthusian recommends abstinence from marriage for a great many who have not the means to support a family. The Eugenist will say that marriage should only be contracted by those who are

physically and mentally fit for the propagation of the race. All these prescriptions do not fit in with the ideological background of our society. It is always better if the principle of late marriage filters down to the agricultural population through the voluntary spread of liberal ideas, although our Committee is doubtful of the extent of success.

(2) The spread of education and culture is of great value in decreasing the rate of growth. "Organisms multiply *in inverse ratio* to the dignity and worth of individual life," observes Herbert Spencer. Fertility itself decreases in the higher classes with increasing wealth and culture. In European and American countries where most investigations have been carried out it has been found:[1]

(*a*) that the birth-rate is negatively correlated with wealth, and

(*b*) that the indirect psychological and social effects of relative poverty as contrasted with relative wealth express themselves definitely and clearly in the sexual activity of human beings and through sexual activity in birth-rates. That cerebral development lessens fecundity is corroborated from the theory that the professional and allied occupations (such as the legal, medical, and teaching professions, artists and men with literary and scientific pursuits) are occupations of low fertility, whereas the labouring classes of agricultural and fishing occupations, of mines and quarries, are of significantly high fertility.

(3) High birth-rate accompanies high death-rate. In our country infantile mortality is alarming. Fecundity affects longevity; hence, greater births lead to greater deaths. Conversely, in countries with a low birth-rate the expectation of life is higher. To bring about a decrease in the birth-rate offers difficulties: social legislation is beset with dangers; artificial restriction of birth-rate is not feasible amongst the agricultural population; the voluntary restraint in married life always remains an ideal; the Malthusian doctrine of natural checks and balances cannot be relied on. In the circumstances, an improved standard of life, accompanied by social reform movement, will check the growing tendency of the size of the family. Accordingly, Mr. Porter, significantly observes in his Census Report of Bengal for 1931: "It is, therefore, possible to expect that a reduction of the birth-rate by the adoption of improved measures of public health accompanied by an improvement in the standard of living, an increase in the spread of education and perhaps principally by a further emancipation of women and their introduction to spheres of usefulness and activity, will in due course result in a decrease in the birth-rate corresponding with the decrease in the death-rate which it is the object of public health measures to bring about."

[1]Raymond Pearl—"Biology of Population Growth," quoted in the Census Report of Bengal for 1931.

Malthusian doctrine with reference to Bengal.

The student of population starts with the theory that population has a tendency to grow in a geometrical progression, while the means of subsistence increase in an arithmetical progression owing to the operation of the law of diminishing returns. In Bengal, as we have seen elsewhere, the yield of land is decreasing in certain parts. It may be expected that the low return of land will diminish the rate of increase of the population, and in fact, it is lessening the rate, but the ratio of decrease in cropped areas and returns in the Burdwan and Presidency divisions is not corresponding with the ratio of variation in population; there has been comparatively greater decrease in cropped areas and returns. In the East Bengal districts, the position is different: in the Dacca district the increase of population is less than the increase of the cropped area but in other districts (such as Faridpur, Mymensingh, Bakarganj) the population has exceeded the increase of the cropped area. All this shows that the rate of increase in population shall have to be checked even if the means of subsistence could be multiplied, and that can be done by enhancing the mobility of our agricultural labour. Man, as Adam Smith has told us, is "of all sorts of luggage the most difficult to be transported." In respect of our agricultural labour, this observation applies more significantly. The absorption of labour in village industries and other occupations and its emigration from villages to neighbouring towns, where labour is mostly supplied from the neighbouring provinces, are essential and will go a great way towards relieving the pressure on land.

Redundancy of population and employment avenues.

But it must be admitted, as pointed out by Dr. Chalmers, that it is not by drawing off the redundancy of the population after it is formed that we can uphold a well-conditioned state of society; but by preventing the formation of the redundancy. High birth-rates are, therefore, prejudicial to the country; the percentage of the rate of increase will remain undisturbed if the death-rates are lowered along with reduced birth-rates. The one will accompany the other. The redundancy of population is an evil: it can and should be met by lowered birth-rate and an increase of agricultural prosperity; it will remain an ineffective remedy if the redundancy is attempted to be tackled merely by diverting them to Government-aided factories. Undoubtedly, it is one of the many methods of relieving the pressure on land, but its effectiveness in the matter of absorbing the growing population of Bengal is extremely restricted. Government cannot start industries without a plan and in a haphazard manner. In the absence of agricultural prosperity the limit of industrial expansion is narrowed down; even with a reasonable measure of industrial expansion, the number of agricultural labourers required in factories will not be sufficiently large, at least not

adequate enough to relieve the pressure on land in a given state of agricultural progress rather of deterioration.

Agricultural prosperity and the quality of human unit.

It may be mentioned, in this connection, that agricultural prosperity, unless coupled with measures to improve the quality of the human unit and the standard of human existence, will "add little to the peasant's real wealth but greatly to his debt and alarmingly to his numbers." Mr. M. Darling in his study of rural Punjab has shown how the good effects of prosperity are neutralised by the rapid growth of population. Accordingly, Mr. Keatings observed in despair: "If every economic advantage gained is to be the signal for relaxation of effort, if improved methods of farming serve not only to increase the crop, but also to swell the ranks of non-workers, is any marked progress possible?" In a warm country, whenever prosperity dawns the people become slack and are satisfied with a low standard of living, provided it is based upon small exertion. In the task of relieving the pressure on land, this aspect of the question should not be lost sight of.

Our Committee has shown ways and means of relieving the pressure of population on land, but it has little faith that the starting of industries by Government, the scope whereof is limited, will appreciably lessen the pressure where it has exceeded the optimum[1] density of population.

Borrowing inevitable in Bengal agriculture.

Q. 83. The soil of Bengal, to use a commonplace phrase, is "raw gold;" it requires to be extracted. Ours is a country of small farms, where agriculture is hardly a business, not even a profession, but a means of livelihood. The cultivator lives on the margin of subsistence and he has "to wait for half a year before he receives the return of his labour, and in far too large an area where there is only one crop in a year, the interval between successive receipts may be full twelve months." There are unfortunate raiyats having small uneconomic holdings who have "to pawn their crops in summer, their farm implements in winter, and their household belongings throughout the whole twelve months." All this emphasises that borrowing is inevitable, because husbandmen who have no reserve capital require financial

[1]"At any given time, or which comes to the same thing, knowledge and circumstances remaining the same, there is what may be called a point of maximum return, when the amount of labour is such that both an increase and a decrease in it would diminish proportionate returns.....Just as there is a point of maximum return in each industry, so there must be in all industries taken together. If population is not large enough to bring all industry up to this point, returns will be less than they might be, and the remedy is increase of population; if, on the other hand, population is so great that the point has been passed, returns are again less than they might be, and the remedy is decrease of population." (E. Cannan's "Wealth", pp. 68-69). Over-population, therefore, means a departure from the optimum in the direction of an excess of population.

assistance between the period of sowing and reaping, and in agriculture there is too wide a space between the sowing of crops and the ripening of them.

Agencies for rural credit.

The agencies interested in rural credit are (1) village mahajans or indigenous moneylenders, (2) co-operative credit societies, (3) loan companies, (4) joint stock commercial banks generally through their branches.

Under the Land Improvement Act and the Agricultural Loans Act, Government grants takavi loans,[1] the former Act authorising outlay on improvements such as wells, bunds, embankments, terraces and the like, and the latter Act giving loans for purchase of seeds, implements and so on.

The total requirement for short term and intermediate loan was estimated by the Bengal Provincial Banking Enquiry Committee to be Rs. 96 crores, of which the co-operative societies were responsible for Rs. 4 crores and the loan offices for Rs. 2 crores. The takavi loans do not generally amount to a high figure. The rest of the loans are met by village moneylenders. Since then, the proportion of satisfaction of the needs of cultivators by different agencies has hardly been disturbed.

Mahajan is the villager's mainstay.

It is not an exaggeration to say that the mahajan is the villager's mainstay. Theorists may and do complain that the countryside lies "blighted by the shadow of the mahajan" but in times of drought and famine, and even in normal times, when the cultivators ask for money, they would have broken down beyond recovery without the mahajan's assistance. To remove such pressing needs and to satisfy such a huge amount required as loans by villagers, nearly all grades of people in the villages who have surplus liquid capital have taken to moneylending,[2]

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[1]The takavi loans are generally unpopular, because they are recoverable by Revenue Officers who insist on punctual payment of interest and repayment of the loan. The hardship of rigid recovery is complained of both by the Famine Commission of 1901 and the Irrigation Commission of 1901-1903. Takavi is distinctly given for working purposes to those who have credit, so that the power of recover is assured. Although the borrower's land is, when necessary, seizable as security, the loan is not given on mortgage lines. A running analysis of takavi loans is found in Henry W. Wolff's "Co-operation in India," Chapter I. In his opinion, an increased employment of takavi loans is an hindrance to the co-operative movement. "It is not the use of an air-bladder and safety-belts that teaches a man to swim."

[2]The ramifications of the system in our country bear analogy to moneylending in China where officials and gentry are one element in it; merchants, a second; professional moneylenders, who specialise in the business, a third; pawn shops, a fourth; certain types of bank, a fifth; farmers who have managed to lay by a little money and use it to make advances, for a consideration, to their poorer neighbours, a sixth." In China also, as in our country, neither borrower nor lender appears to make any clear distinction between loans needed to finance the business of farming, and loans sought to eke out the domestic budget. Every thing goes down in a common account with the result that there is no discrimination in the mind of either debtor or creditor between the borrowing and advancing of money for productive purposes and household expenses. *Vide* R. H. Tawney's "Land and Labour in China", first published in 1932, pages 60 and 62).

and in a private and unregulated business which thirsts for more and more profits, usurious rates of interest have come to stay. It is being tackled by the Moneylenders Act. The Bengal Act of 1933 has placed certain checks on usurious rates.

Thrifty cultivators antidote to crafty mahajans.

Our Committee finds that village mahajans, though rebuked as "rapacious jews," are satisfying the needs; the co-operative credit societies are touching only the fringe of the problem; the loan companies have generally, though in an imperfect way, tried to satisfy the requirements of long term credit which the Co-operative Societies Act does not provide for; the Joint Stock Banks have obvious limitations and they generally lend money "on the movement of produce" which can be, and are, hardly availed of by disorganised producers having no organised marketing arrangements. In any scheme of credit organisation on scientific lines, "the factor of production above all others to be strengthened and stimulated is," to quote Wolf, "the man himself, not his purse."

Our Committee submits that the organisation of credit brings forward the question that usury[1] and need are two enemies to be vanquished. The lines on which the poverty of agriculturists may be attempted to be grappled with, have been suggested in our previous replies, but this is to be mentioned here that any good credit organisation presupposes that agriculture is a profitable calling for cultivators whose credit needs are to be met in the interest of the nation. If agriculture is unremunerative to its tillers, the foundation of credit organisation on any sound basis will be shaken. Bearing this in mind we shall have to approach the problem of usury. Usury comes with poverty; thriftlessness is its parent; if we can banish improvident habits of cultivators and create thrift, usury goes, or at least, is controlled within reasonable limits. Accordingly, our Committee stresses that the creation of thrifty cultivators is the antidote to crafty mahajans. Legislation cannot control usury; "usury laughs at laws." "Education and the development of character are the sole specifics against both, the wiles

[1]Jeremy Bentham defines usury in the following way: "I know of two definitions that can possibly be given to usury; one is the taking of greater interest than the law allows—this may be styled the political or legal definiton. The other is the taking of greater interest than it is usual for men to give and take—this may be styled the moral one, and this where the law has not interfered is plainly enough the only one." N. Barou in his "Co-operative Banking" explains the matter further by observing: "Moral usury does not, as a rule, occur in ordinary commercial and investment loans or in business connected with the ordinary money market of the country. Usury always finds its victims when an emergency makes borrowing a necessity. Against such emergencies social insurance is the best defence, and furthermore, it tends to reduce the occasions for such borrowing. It must be clearly understood that the best organised system of credit for small borrowers will prove ineffective if it has to meet the emergencies alone, without the aid of social insurance. In short, credit organisation can only be a supplement to social insurance and not a substitute for it" (pages 10-11). The unequal bargaining position of the cultivator and the mahajan is to be taken note of.

of the lender and the recklessness of the borrower. No legislation, however wise or sympathetic, can save from himself the cultivator, who through ignorance or improvidence, is determined to work his own ruin'' (Royal Commission of Agriculture in India, 1928). There is nothing so costly as ignorance; there is nothing so valuable as character. Therefore, the first essentials are the training of cultivators in the habits of thrift and saving, and stoppage of wastages and leakages that take place through social and religious customs and unscientific and unproductive ways of living.

The case for registration of moneylenders.

The registration of moneylenders fixing the maximum rate of interest, it seems, is getting popular amongst our countrymen. In fact, the Bihar Moneylenders Act, 1938, provides for registration of all moneylenders on pain of suits for loans being not maintainable at the instance of unregistered moneylenders. Registered moneylenders shall have to maintain accounts of loans advanced and to give receipts for all payments made to them. They will also be required to give a copy of account to the debtor at least once every year. It fixes a maximum rate of simple interest at 9 per cent. per annum in case of secured debts and 12 per cent. in case of unsecured debts. In no case shall the interests paid exceed the principal. Compound interest is totally abolished. Moneylenders are liable to criminal prosecution for not keeping books in order and are punishable with an imprisonment of one year and a fine of Rs. 500. The Moneylenders Registration Act has recently been passed in the Punjab. The Punjab had already one salutary Act in existence, and that was the Punjab Regulation of Accounts Act obligating all persons, moneylenders, or shopkeepers, who advanced loans in money or in kind at interest, to keep an account for each debtor and to send him every six months a signed statement of the account distinguishing between principal and interest and detailing all the loan transactions of the past six months. If a separate account is not maintained under the Act for a debtor, the creditor is liable to lose his interest and will in any case not be awarded cost.

The case for co-operative societies of moneylenders.

The Central Banking Enquiry Committee favoured the idea to form co-operative societies of moneylenders which should lend to the primary societies and not to individuals. The adoption of any such scheme presents the initial difficulty: whether moneylenders will get frightened and refuse to be within the ring of registered moneylenders or the scheme of co-operative societies of moneylenders. Moneylenders in their loan transactions with individual cultivators must be assured of a rate of interest, higher than the bank rate, otherwise undue restrictions on them will contract the available credit money and divert it to the

local branches of the joint stock banks. The needs of cultivators are pressing and great; the resources of Government are inadequate. The liquid money of private persons shall have to be mobilised in a way as to satisfy the needs without usurious rate of interest, and also in a way as not to bring about shrinkage of capital to the prejudice of debtors. The problem thus becomes delicate, technical, and a matter of grave national importance. The indigenous moneylenders generally carry on personal business and advance credit, both long term and short term. Both classes of loans are advanced without caring to inquire about the purpose of the loan, whether productive or unproductive. In our country it is very difficult to draw a marked line of distinction between productive and unproductive expenses; a portion of the expenditure, although unproductive from an economist's standpoint, is enjoined by religious and social obligations, and hence necessary. The best dividing line may be between necessary and unnecessary expenses. Long term loan is generally secured and short term loan often unsecured. An agriculturist's capital is locked up in his land and stocks. Hence, credit is not necessarily objectionable, nor is borrowing necessarily a sign of weakness, as put by the Nicholson Report of 1895. But there are peasants who require loans beyond the mortgage values of their land and stocks, and to that end, the personal business of mahajans is extremely important; an organisation run on any banking principle is helpless there. Poverty being so general, income so poor and land and stocks inadequate, the problem of credit becomes all the more delicate; it thus tends to go beyond the pale of legislation and banking organisation. But those peasants of poor resources cannot be neglected; the need for the regeneration of agriculture requires their nursing in a suitable manner. A Chinese philosopher has been quoted by Darling as saying: "The well-being of a people is like a tree; agriculture is its root, manufacture and commerce are its branches and its life; if the root is injured, the leaves fall, the branches break away and the tree dies."

Moneylender is a necessity.

In the above analysis, our Committee has tried to show that the essential of agriculture is credit, and that the sphere of private moneylender is peculiar to his personal business which, in the given framework of rural economy, cannot be dispensed with. Thus, the moneylender takes undue risks and is entitled to a greater rate of interest. The objectionable ways of moneylenders are to be rooted out, but their useful role should not be ruled out. We want to control moneylenders for stopping usury; we do not, and should not, control them for restricting the natural flow of credit money. If it flies elsewhere, the doom of agriculture is sealed, and it must be taken note of that it is with our agricultural prosperity that our industrial expansion is bound up. Our Committee notices that there is not a clear recognition of the

differences between the task of checking usury and of restricting credit. Impatient reformers often confuse the one with the other; that is not only lamentable, but it acts as a clog on our wheel of economic progress.

Better marketing, a problem of agricultural finance.

Moreover, the question of credit cannot be considered alone. Our agriculturists are disorganised, agricultural produce is not standardised; there are no opportunities for the pooling of products of individual cultivators; the quality of produce is diverse and poor; the distribution of agricultural commodities is made in an erratic and bunglesome manner. All this affects the question of credit. Banking follows trade. If there is intelligent merchandising of agricultural products, the problem of agricultural finance can be satisfactorily solved. Banking credit can only expand if there is organised marketing. If products can be moved into an organised channel of production, the financing thereof "changes from agriculture finance to commercial credit." Better marketing is thus a problem of agricultural finance. The aid of commercial banks cannot be availed of in financing our agriculture, if the produce cannot be used as a security for provision of cheap credit.

The limitations of the co-operative movement.

The co-operative movement has a great part to play in the solution of the credit problem but the limitations of the movement, on which much reliance is placed by some thinkers, are to be recognised. The various handicaps and weaknesses of the movement are set out below—

(1) The co-operative credit society seeks to meet the current needs of agriculturists, but it does not relieve the crushing burden of indebtedness which they are carrying.

(2) The funds available to the movement are limited. Co-operation, as Sir Horace Plunkett has pointed out, will succeed only as an integral part of a comprehensive agricultural policy. In Bengal there has been an undue emphasis on credit societies, but unless the purchasing power of agriculturists is attempted to be improved by the co-operative solution, the credit societies are bound to come to grief in the process of time, as many of them have come to during the period of depression, when credit money could not be paid because of the lowering of their purchasing power.

(3) The movement justifies its existence not only to meet the credit needs of raiyats; it has a higher moral ideal of a collective community. That ideal has hardly been insisted upon in our country; there is no co-operative effort for riding the rural society of wastages involved in illiteracy, improvidence, unproductive ways of living, etc. There has been no joining of forces and the co-operative ideal has not been kept in the forefront.

(4) There is widespread illiteracy and lack of business experience; they undoubtedly act as handicaps.

(5) There is lack of spontaneity in our co-operative movement. "The habit of looking to the Government to do for us things which we can and ought to do better for ourselves" offers the greatest obstacle to the growth of the spirit of self-reliance. The societies are generally established by Government initiative, kept in order by Government audit, and financed by Government credit, and all this does not run in line with co-operative ideals. (The peculiarities of our country are to be noted where some amount of Government supervision is necessary, and even State control, to a limited extent, is desirable; all this is to be attempted without abandoning the principles of co-operation.)

(6) The Maclagan Committee emphasised that each member should have knowledge of the principles of co-operation, if co-operation is to be genuine. "While societies have been registered freely, there has been a lack of patient and persistent education of the members in the principles and meaning of co-operation by teachers competent to perform their task efficiently under adequate supervision" (Royal Commission on Agriculture).

(7) The co-operative movement attends to short term loans; the lack of provision for meeting long term credit is the obvious limitation of the movement. A credit system without cheap long term credit for such purposes as debt redemption and land improvement touches only the surface of our credit problem.

(8) The Maclagan Committee wrote in 1915 that "there is no defect more prominent or more dangerous in the management of co-operative societies in India than the exceeding laxity and unpunctuality in the repayment of loans.....unless loans are repaid punctually, co-operation is both financially and educationally an illusion." Arrears are also due to lack of supervision and slackness of managing committees, although low returns from agriculture, old indebtedness and innate habits of unpunctuality are primarily responsible.

(9) Agriculturists generally keep out of the ring of co-operative credit societies, because there are formalities inevitable in an organisation;—the purposes of the loans are looked into and loans for unproductive purposes are discouraged, the impersonal touch and the more rigid procedure for realisation of dues are not appreciated, the co-operative societies do look more to the assets and resources of the debtors and less to the character and personal elements and as such their ways do not get approbation from our raiyats used to personal touch, laxity, forgiveness and even personal exactions of the mahajan.

(10) Our economic malady is deep-seated and of long standing. Co-operation in the circumstances is not a panacea; it can mitigate some of the most painful symptoms. The removal of rural distress, the

liquidation of indebtedness to the mahajan, the raising of the prices of agricultural produce by monetary devices, a planned and extensive exploitation of the resources of production to suit consumers' preferences—all this can hardly be achieved by the principles of co-operation.

(11) It may be criticised that "co-operative credit is only a modernised sort of 'takavi,' in which membership is only an outward form and, the help rendered being taken to be Government help, no acute sense of responsibility has been awakened." Henry W. Wolff significantly observes: "Committee men have in some places, like carvers, thought mainly, if not exclusively, of themselves, allotting the loans to themselves, and gladly extending time for repayment to one another. And the 'panch' being held in reverent esteem, especially in the absence of supervising councils, control of the Managing Committee has remained a weak point. Rightly appreciating the value of combination among societies, which in India is an absolute necessity, by means of Central Banks, organisers have come to regard such Central Banks as the 'pivot' institutions of the movement, the authorities to direct local affairs as well as central, and act as overlords and suzerains to the local societies, which, in truth, it is their mission rather to serve than to domineer over. This is a mistake of course. For it is the local society which educates and brings home the responsibility, which co-operation imposes upon the individual" (Henry Wolff's "People's Banks.")

Matters to be considered in reorganising credit organisation.

Our Committee is analysing all these difficulties, seemingly insurmountable, but undoubtedly great and delicate, to indicate the nature of the task involved in the reorganisation of our credit organisation. There is no short cut. The Committee, therefore, urges on the Commission to take the following into consideration in the matter of reorganising our credit organisation:—

(1) The personal business of moneylenders which is peculiar and essential should not be discouraged.

(2) Efficient marketing is necessary for organising financing on commercial lines. Any bank, joint stock or co-operative, has obvious limitations, and the resources of a bank are, and can be, available in a more effective way to producers, if they are organised.

(3) There should be no "touting" for deposits, either in the co-operative banks or in the loan companies. The rate of interest should be assured, and the help of Government in guaranteeing the interest on debenture loans is felt very insistent and necessary. The floating of debenture loans by the central organisation, either of the co-operative banks or of loan companies, organised anew on banking principles, will minimise the necessity of drawing deposits on any preferential term.

(4) Government should not enter into the field in a spirit of competition with the joint stock banks or loan companies but rather assist the existing organisations so that they may function usefully. It is not a sound proposition to make Government a banker on profiteering lines (that is, paying interest on deposit money, and realising higher interest from debtors).

Difficulties of agricultural credit.

There are inherent difficulties in tackling the problem of agricultural credit. Those difficulties are: (1) Agriculture remains scattered, individualistic and small scale. The units of production are of one-man concern, and the credit available for the concern is limited to the credit of one man or one family. (2) In the very nature of things the agriculturist is isolated and remote from normal opportunities of obtaining credit. (3) In agricultural production and also particular crops, there is inelasticity of supply, and the comparative difficulty of adjusting the supply to fluctuation in demand. (4) The principal security in agricultural finance for a long term credit is land which is ordinarily unsuitable for commercial banking, for land is not readily a realisable asset and its price is liable to peculiar influences. (5) The liquid and easily realisable assets of the cultivator are his crops or livestock or dairy produce and they are precarious forms of security owing to the physical risks to which production is subjected. (6) The phenomenon of over-production affects agriculture most, because the agriculturists are disorganised. All these handicaps have been referred to by the Central Banking Enquiry Committee. Some of the difficulties shown can be overcome and some minimised. To ensure a scientific credit organisation for agriculture these handicaps should be examined, weighed and guarded against, as far as practicable.

Private mahajans are national assets.

Q. 84. Our Committee has shown in reply to question 83 that the credit needs of agriculturists are practically met by private moneylenders. If the total interest charged by them be worked out and found to consume 25 per cent. money equivalent of gross produce of Bengal, we can only be impressed with the extent of credit needs; it would be very wrong to describe it as an annual drain. If the interest charged is at an usurious rate, it is a drain to that extent; but when they satisfy the legitimate credit needs by charging lawful rates of interest, they are undoubtedly performing national services, and in this sense, private mahajans are national assets. The resources of Government are inadequate and are unable to meet the credit needs, and in the circumstances the services of mahajans should receive grateful recognition. In fact, without their services, the agriculturists of Bengal would have been shaken beyond any hope of recovery. To underrate the services of mahajans, is a very

wrong approach to the credit problem. If the interest charged by mahajans is seriously described as a drain, is it ever contemplated that the credit problem of Bengal is proposed to be satisfactorily solved by lending out money without any interest at all? The greater the amount of mahajans' lawful interest, the greater is the dependence of agriculture on mahajans' capital. That shows rather a different picture, that is, Government is dependant on the mobolisation of private capital through a private organisation for meeting the credit needs of agriculturists. The country has, therefore, every reason to be grateful to mahajans; Government has every reason to be ashamed of the absence of a credit policy.

Usurious rate of interest deprecated.

Our Committee, however, deprecates the charging of usurious rate of interest, but private moneylending, confined to legitimate bounds, is a national service especially when agriculturists can confidently look up to no other organisation for satisfaction of their pressing needs. The suggestions for improvement of the credit organisation of Bengal are detailed in the replies to questions 83, 85, 86 and 87.

Co-operative credit touches only the fringe of the credit problem.

Q. 85. Our Committee has shown in its reply to question 83 that the co-operative credit societies touch only the fringe of the credit problem. Their resources are inadequate; they are not also popular; they are often avoided by cultivators. The co-operative movement is "self-help made effective by organisation," as was put by Sir Horace Plunkett. In the co-operative movement of our country, the basic ideal is found wanting. "It is not a spontaneous growth but a Government policy." "The distinction between co-operation imposed by the Government and necessarily supervised, regulated, restricted and controlled, on the one hand, and co-operation promoted by voluntary initiative and sustained by the co-operative spirit, which insures the loyalty of the members, on the other hand, cannot be over-emphasised" (Horace Plunkett).

The co-operative movement has obvious limitations; the disproportionate growth of credit societies has resulted in loans being locked up when the purchasing power of the cultivator shrank owing to economic depression. In fact, many societies have come to grief and become heavy with outstanding duties payable by debtors. The handicaps of the movement should be removed, at least as far as possible, and the weaknesses rectified. The movement to be effective must be free from the removable and curable defects.

The co-operative societies have not been able to enter into the real needs of agriculturists and, accordingly, only a small number of cultivators are benefited by the movement.

Co-operative rate of interest to be below the mahajan rate.

The aim of co-operative societies is to give members better service at a less rate of interest than the rate they would have to pay outside. The societies' rates must be below those of the mahajans. The Maclagan Committee pointed out that a society's profits depend mainly on the difference between its borrowing and lending rates, and held that until the reserve fund had reached a substantial figure it was a mistake to reduce unnecessarily the rate at which money is lent to members. Moreover, unusually low rate[1] may encourage reckless borrowing and borrowing for re-loaning by members. In Bengal, it is said that the central banks borrow at 6 per cent. and lend to the primary societies roughly at 10 per cent. Unusually low rates will encourage the members to discharge first their obligations to moneylenders, while the societies' overdues will pile up. The Maclagan Committee blamed too low or prematurely reduced rates of the primary societies, because in that case central banks will find difficulties in financing them. Hence, the rate of interest to be charged by a primary co-operative society from its members should vary with the bank rate, and the rate that can be lawfully charged by private moneylenders. Deposits may be attracted if the rate of interest thereon is a little over the bank rate given by the joint stock banks; the central banks will finance primary societies if they are sure of a margin, however small. Primary societies are to earn sufficient margins to pay the rate charged by the central banks, and to allow for their management expenses and bad debt insurance. But the rate of interest to be earned by primary societies from their members must be below the rate legally due to private moneylenders, who undertake greater risks in their personal business. Thus the rate may be varied from time to time, say, from 9 to 12 per cent.

Measures to be adopted to reconstruct rural economy.

Q. 86. We have shown that borrowing is inevitable in our country; the malaise is not in borrowing. The incapacity to repay loans is the fundamental question related to the problem of indebtedness. The reasons which lead to the borrowing are distinct from those which make cultivators impossible to satisfy their needs. This

[1] "In spite of all that has been said, however, against the dangers of too low interest rates, I am convinced that, given proper control of credit, they are less objectionable than too high ones. And the rates which co-operative society members have to pay in most parts of the country are too high"—Eleanor M. Hough in "The Co-operative Movement in India," page 80, published in 1932. The Central Banking Enquiry Committee observes: "One of the main requisites of agricultural credit is that it should not be too costly. Credit provided by the co-operative organisation is still much too dear for the cultivator in some provinces. We consider that if a rural society charges its members a rate higher than 12 per cent. per annum, it should form the subject of careful inquiry by the provincial Government and the provincial Bank concerned, and steps should be taken to reduce the rate of interest.

emphasises that borrowing for unproductive purposes is fatal. Therefore, to tackle the problem of indebtedness we have to reconstruct our rural economy on vital fronts. The following measures are essential:—

(1) The holding must be economic. The occupier of the uneconomic holding cannot be free from debts.

(2) Agriculture must be made remunerative; the production and distribution should run through organised and improved channels.

(3) The financing of agriculture must be at a low rate of interest, and the poor bargaining strength of the cultivator in the matter of getting loans should not be exploited by unscientific credit organisations.

(4) The mere rise in the prices of agricultural produce is rather harmful: the deficits of those who are insolvent will increase; it will be neutralised by larger population and greater debts. Accordingly, improvements in the standard of living and the character of cultivator (including removal of improvidence, thriftlessness, illiteracy, and other inefficiencies) are of great importance. The habit of saving and the art of regulating the spending of money after spreading over the period till the next harvest season are to be encouraged.

(5) The main causes of indebtedness (such as failure of crops from drought, poverty with irregularity of income, the ancestral debt, the increase of population without corresponding increase of produce, facilities for borrowing for unproductive purposes) must be looked into, and specific remedies must be suggested for the manifest purpose of removing the causes.

Bengal Agricultural Debtors Act, and agricultural finance.

If it is accepted that the Bengal Agricultural Debtors Act, 1935, was passed as a measure for tackling the problem of indebtedness, it must be clearly recognised that the approach was wrong and unscientific. The Act establishes Boards for scaling down debts and arranges for repayment of the "awarded debt" by long instalments. It is at best an attempt to scale down the existing debts; it does not provide for future debts and does not even conduce to conditions which may ensure repayment of the "awarded debts." It is a peculiar case of State interference without sharing in the responsibility. The causes of indebtedness remain untouched; there is no provision for the supply of credit money; the sanctity of debts is discounted and the mentality of non-payment of dues is encouraged; the decay of agriculture is left where it is; private creditors are hurt for no fault of their own, and they will perhaps be ruined by the indifference of Government. The Government of Bengal is setting up Boards; cultivators are thirsting for loans. The problem of indebtedness is not capable of any such easy solution.

The scaling down of accumulated debts is, in strict logic, not an unworthy measure as a preliminary to launching on a comprehensive scheme for attacking the problem of indebtedness. But the State, when it goes on to interfere with contracts validly made under the existing law, must be aware of its heavy responsibilities, and it can only be supported when such a measure is supplemented by organisations for better financing and better marketing, seeking to satisfy the needs of agriculturists and to maintain and improve their purchasing power. But a mere policy of scaling down, or liquidation of debts, unless coupled with the other supplementary measures of checking the wastages leading to indebtedness, is an evidence of the lack of appreciation of the gravity of the problem. It is unfortunate that debts are being wiped away with no ultimate plan in view; creditors are prejudicially affected but cultivators are not getting the full return of the sacrifices of creditors. The temporary respite of cultivators does not improve agriculture; it is only a good beginning. That is evidently the end of the economic policy of Government; the sacrifices of creditors are thus running to waste.

Agriculturists must borrow. This inevitability of borrowing which is emphasised by all the reports of the Committees set up to discuss the problem of agricultural debts, is frankly neglected in the Agricultural Debtors Act. It thus falls short of a measure "dealing with the problem of agricultural debts." The Act has, as usual, frightened private creditors. But our agriculture, if it is to live and prosper, must have cheap finance. If private creditors tighten their purses, as they are bound to do so under the prevailing circumstances, the rescue of agriculture, without a substitute credit organisation, assisted and encouraged by Government, becomes extremely difficult. It is no genuine relief if the old debts of cultivators are scaled down or even liquidated, and they find in the next date that there is no one to finance them in their agricultural operations. Those who are solvent farmers and are not absolutely dependant on loans will have all the advantages of the Act, although they do not require the protection of such legislative measures. But those farmers who live on the margin of subsistence and have to depend on loans for the financing of their operations, (and their numbers are growing), will have little constructive help from the Act; rather they will ultimately lose. In the countryside complaints are already audible, but they are being submerged in the noise of political agitation. The Act can never be defended in the interest of agriculture; it is of no constructive help in dealing with the "problems of agricultural debts." It is, at best, a measure for granting relief to the solvent raiyats, who may live on incomes from land but who are evidently not farmers themselves. They do not feel the pinch of loans for cultivation expenses, but they have all the slices of advantages under the Agricultural Debtors Act.

Defects of the Act.

Our Committee has shown that the basic principles of the Act are defective. Some of the defects found in the working of the Act are given below—

(1) The expression "agriculturists," for whom the Act is evidently meant is not happily and clearly defined.

(2) The sanctity of arrear rents is not fully recognised by the Act; the payment of arrear rents by spreading it over long periods directly affects landlords with whom the zamindari property is a business investment. No business can function if its flow of income is thwarted by an outside organisation interfering with the Civil Court decrees, lawfully obtained.

(3) The rigid repayment of loans according to the "award" has prejudicial effect on the realisation of current rents by landlords.

(4) The proceedings before the Debt Settlement Boards are often protracted and they thereby stultify the normal operations of Civil Courts.

(5) The Act fosters a spirit among debtors to default payment of credit money. This is the importation of a serious disquieting feature in our rural economy.

The people have bankers but no bank.

Q. 87. It is true that the want of a banking system for the people is standing in the way of our economic development. Sir Daniel Hamilton complained that "the people have many bankers but no bank." The solution of the credit problem involves the provision of improved banking facilities. The competition of would be borrowers for the limited funds of the mahajan was cited by the Bengal Banking Enquiry Committee as a contributory cause of usury. But it must be equally recognised that "no improvement in the existing credit system and banking facilities is likely to be effective unless it is accompanied by measures for raising the standard of living and economic condition of the mass of the population and for building up its productive strength. The progress of banking will depend on the spread of education and the promotion of agricultural improvement and on the encouragement of industrial effort. Economic progress and development of banking being interdependent, banking cannot make any advance in a community sunk in poverty, ignorance, and helplessness" (The report of the Bombay Banking Enquiry Committee).

The role of Government should be one of guidance, not of banking itself.

In our answer to question 83 our Committee has not appreciated the ideal of Government as a banker competing with the other

commercial and co-operative banks. The extension of commercial banks is essential and will be helped by better marketing arrangements; the extension of co-operative banks and loan offices on scientific principles is also necessary. But all the existing agencies may be improved and assisted by Government so that the financing of agriculture may be made more effective and useful. In America the Federal Reserve Banking system has been organised with an eye to the interests of agriculture; the Federal Reserve Board can make liberal provisions for financing agriculture. In England the English Mortgage Corporation was set up by the Agriculture Credits Act of 1928, and the leading joint stock banks of England are the share-holding units in this Corporation. This is referred to and explained by the Central Banking Enquiry Committee. The Committee has also pointed out the need for commercial Land Mortgage Banks especially in the provinces where the Permanent Settlement prevails. In the absence of any such mortgage institution land is deprived of its proper credit value. But this is for long term loans. The short term loans for agriculturists are insistent, and they should be met by private moneylenders, co-operative banks, and joint stock banks through their branches. Loan companies, after they are reorganised, may find their room in the scheme. The extent of Government's help should extend to legislative and financial assistance in an approved manner. Our Committee is not in favour of State-owned and State-managed commercial banks in every union to finance agriculturists with short term loans. The privileges which the State, as sovereign power, owns may be spread over the existing agencies in a planned manner. That is more suited to the needs of the situation, unless, of course, the vision of a planned economy under an authoritarian State is envisaged for the country.

We have elsewhere discussed the difficulties of starting scientific credit organisations, and they will indicate that a mere establishment of banks, unless coupled with measures for improving the marketing arrangements by proper merchandising of produce, cannot solve the credit problem satisfactorily. The obvious limitations of such banks should not be underrated. All these connected problems cannot be brushed aside in a consideration of the question in the matter of Government banks in every union. Our Committee has more fully urged its point of view in the answer to question 83.

The expensive and dilatory methods of realisation of rents through Civil Courts.

Q. 89. In Bengal, landlords have to sue in Civil Courts for arrears in rent. The judicial statistics in Bengal show that the majority of the suits in Civil Courts are rent suits, and most of the money suits are for kistibandi (bonds executed by the tenants for arrears of their rents). The expensive and harassing methods of collecting rents

through Civil Courts tell on the resources of landlords and also of tenants. When the Settlement of 1793 was framed, such a miserable situation, brought about by the tenancy legislation, was not contemplated. The raiyats in 1793 enjoyed their rights on punctual payment of rents; their crops were liable to distraint and the frequent recourse to law courts in every conceivable matter between landlords and tenants was rather discouraged so that the institution of landlordism may grow to its full stature. In Act X of 1859 the transfer of original jurisdiction in suits between landlords and tenants from the Civil to the Revenue Courts was effected. The Chief Civil Court of the district retained a limited appellate jurisdiction. But Act VIII of 1869, which re-enacted Act X of 1859, so far as the substantive portions were concerned, retransferred the jurisdiction as to trial of cases between landlords and tenants from the Revenue Courts to the Civil Courts. The Rent Law Commission, which was practically appointed to devise, among other things, a speedy procedure for effective realisation of rents, came to the interesting conclusion that justice could not be abridged, although in simple rent suits rights are not attempted to be affected; and if they are, jurisdiction of Civil Courts may be justified. However, the Tenancy Act of 1885 empowered the local Government to order survey and preparation of record-of-rights. The period of limitation for suits in arrear rents is three years, and the time, from which period begins to run, is the last day of the agricultural year in which the arrear fell. The landlord ordinarily sues in the fourth year and obtains a Civil Court decree in the fifth or sixth year. After obtaining the Civil Court decree, the decree-holder may apply for the sale of the holding; and the obtaining of the sale decree, which is much complicated, involves much waste of time. If a landlord is to go through all this cumbrous procedure for every individual raiyat, it may be surmised that no institution can remain healthy; it tends to corrosion and corruption. Moreover, the provisions regarding distraint of crops which existed in a modified form up to 1928, have been deleted, and in 1938, section 158A, whereunder private landlords could get the facilities of certificate procedure at the instance of the local Government in the matter of realisation of arrear rents, has been repealed. The interest on arrear rents is reduced to six and a quarter per cent., and thereby the last incentive to payment of arrear rents is taken away. The position of landlord in the matter of realisation of arrear rents of raiyats is, therefore, this—

(1) Landlords are to sue in Civil Courts;

(2) The period of limitation in instituting suits for arrear rent is three years which encourages raiyats to be remiss in payment of rents;

(3) the intervening period between two successive rent suits must be at least nine months;

(4) there are no provisions for distraint of crops for realising arrear rents;

(5) the interest on arrear rents is so low as not to encourage the habits of prompt payment;

(6) whenever a holding is sold in execution of a decree for arrears of rent, and the sale is confirmed, the purchase shall take effect after the confirmation of the sale which again involves some wastage of time to the prejudice of the decree-holder;

(7) section 158A of the Tenancy Act is repealed.

Dilatory procedure illustrated by a few cases.

Our Committee is not aware of any country where landlords have been asked to function usefully under the handicaps mentioned above. In addition to the legislative handicaps, the dilatory procedure of Civil Courts in our country is well-known. As illustrations of the dilatoriness and ineffectiveness of Civil Courts our Committee sets out below the disposal of certain rent suits—

The Port Canning Company *vs.* Elahi Bux Molla and others, Rent Suit No. 28 of 1927 filed at the 3rd Sub-Judge's Court at Alipore in April, 1927, for arrears of rent for 4 years from 1923 to 1926. The J. D.'s failing to pay the decretal dues settled in the High Court on 27th April 1933 the decree was put under execution in the month of November 1934 and the decree was fully satisfied on 29th April 1935 after long 8 years from the date of the institution of the suit.

Rent Suit No. 5 of 1931 (the Port Canning Company *vs.* Hrishikesh Dutta and another) involved 6 years from the date of institution to the date of the realisations of the dues.

Rent Suit No. 7 of 1931 tells the same tale.

Rent Suit No. 16 of 1934 (Kumar N. N. Mitter *vs.* Md. Ekramali Talukdar) in the 2nd Sub-Judge's Court, Barisal. Plaint filed on 16th April 1934; execution petition filed on 4th September 1934; sale confirmed on 10th June 1935; petition for setting aside sale on 24th June 1935. The case dragged on to 25th September 1937.

Rent Suit No. 17 of 1929 (Kumar N. N. Mitter *vs.* Santosh K. Das and others) in the 2nd Sub-Judge's Court, Barisal. Suit filed on 28th September 1929, judgment debtor files a case on 5th September 1934 to set aside sale, 17th November 1934 was fixed for deposit of the decretal amount.

Rent Suit No. 1 of 1934 was instituted against Fakir Chandra Roy by the Maharajadhiraja Bahadur of Burdwan in the court of the Subordinate Judge at Bankura on 28th February 1934 for recovery of the arrear of rent. The sale was confirmed on 8th February 1937.

Rent case No. 2512 of 1934 instituted by the Nashipur Raj in the Court of Munsiff, Rampurhat, demanded Rs. 342. Instituted on 15th April 1934; disposed of 19th September 1934, Execution case No. 68 of 1936. On the party agreeing to pay amicably the case was withdrawn. But no payment was made, fresh execution case was filed in 1937, Case No. 1975. The party made part-payment.

Rent Suit No. 1/30 (Raja P. N. Tagore, Plaintiff *vs.* Eshak and others, defendants) in the Sub-Judge First Court, Barisal. Plaint filed on 27th March 1930. Even in 1934, execution pending. Whole amount not realised even by 1937.

The above cases are given as illustrations; our Committee has in its possession records of rent suits in the different districts of Bengal indicating the dilatoriness of Civil Courts in their final disposal. It is really interesting to note that cases are made to drag on even under colourless pretexts. Those who are familiar with the rent suits in Bengal know how the habit of playing at law, and the dilatoriness of Civil Courts, exercise prejudicial effects on the landlord-tenant system in Bengal. Our Committee is giving below a specimen case to indicate how rent suits are dragged on and executed in Bengal.

Rent Suit No. 3/32 in Sub-Judge 2nd Court, Barisal, Raja P. N. Tagore (Plaintiff) *vs.* Anes Mufti and others (defendants)—

Plaint filed on	15-4-32
Summons served. Defdt. 13 & 14 appeared and filed written statement	23-9-32
Written statement of Defdt. 1	10-11-32
Written statement of Defdt. 11 and 12	18-1-33
Defdt. 1 prayed for local enquiry on the ground of diluvion on	5-4-33 & 24-4-33
Defdt. 1 moved and pressed the petition of local enquiry on	15-5-33
Plaintiff opposed it on ...	16-5-33
Defdt. 1 prayed for postponement of the commission of local enquiry on the ground that the rent land is under water on	30-5-33
Defdt. 1 prayed for production of some documents from the plff.	8-3-34

Several petitions by defdt. & opposed by plff. for the production of document till	16-6-34
In the meantime defdt. 2 died and his heirs are substituted on	17-8-34
Commissioner filed report on the diluvion enquiry and plff. puts in objection against them on ...	12-9-34
Defdt. also puts in objection	14-9-34
Defdt. 1 prayed for time on the ground that his son is attacked with small-pox	20-5-35
Defdt. 1 prayed for time on the ground that defdt. 3 is dead and he himself is ill on	8-8-35
Plff. prays for substitution of the heirs of defdt. 3 on	31-8-35
At last after substitution and some adjournments the suit was decreed on	21-12-35
Then the decree was first executed on	20-3-36
Then on	21-12-36
Then on	22-12-37
Still whole of the decretal amount has not been realised	26-3-38

It is thus evident that the machinery available to landlords for realisation of rents is "costly and cumbrous" and undoubtedly "expensive" to raiyats also.

Over and above all this, there are Debt Settlement Boards interfering with the payment of arrear rents; there is the deterioration of agricultural prices in the absence of a progressive policy initiated by Government; there is the countryside agitation contributing to non-payment of rent; a spirit of defiance of the established laws and class-relations is abroad, to the dangers of which Government does not seem to be fully alive. If the landowning community has not yet broken down under the forces marshalled against it by the legislative handicaps, unconstitutional activities of agitators, the general tide against the acquisitive order of society, and Governmental indifference, that bears eloquent testimony to its grip and grit. In fact, our Committee has been asking for a simple, effective procedure for realisation of rents for the maintenance of the institution of landlordism. It is not an extraordinary demand; it is conceded in every progressive country; it is appreciated even in other provinces.

What "rules of good husbandry" mean in England.

In England the landlord may claim compensation from the tenant if the value of the holding has deteriorated during the tenancy by the failure of the tenant to cultivate according to—

(1) the rules of good husbandry, or

(2) the terms of the contract of tenancy.

The expression, "rules of good husbandry," as defined by the Agricultural Holdings Act of 1923 (*vide* section 57), means—

(*a*) the maintenance of the land in clean and a good state of cultivation and fertility, and in good condition,

(*b*) the maintenance and clearing of drains, embankments and ditches,

(*c*) the maintenance and proper repair of fences,

(*d*) the execution of repairs to buildings (repairs which are necessary for proper cultivation of the land, on which they are to be executed). If a tenant is in arrear with his rent, the landlord may not only bring an action for its recovery, but he has also the right, without any previous legal process of any kind, and without even making a previous demand for the rent, of entering upon the premises in the occupation of the tenant, and there seizing different goods to satisfy the debt. This right is known as the right to levy distress.

Section 34 of the Act in England shortens the period for making a distress for rent to one year in agricultural tenancies. A landlord cannot distrain till the day after the rent becomes due; no distress can be made between sunset and sunrise. If rent is made payable quarterly "in advance if required," the landlord may distrain at any time during the quarter after demand. Section 35 provides for limitation of distress in respect of things to be distrained. Things absolutely privileged are perishable commodities (such as vegetables), fixtures, things in actual and personal use, wearing apparel, agricultural or other machinery which is the property of a person other than the tenant, livestock which is the property of a person other than the tenant, etc. Things conditionally privileged are beasts of the plough, tools, or implements of trade, etc.

The position in the States of America in realisation of arrear rents.

In many of the north central States of America laws have been passed declaring that the landlord shall have a lien for his rent upon all crops grown upon the premises leased. In others, a lien can be created by agreement of the parties. In some cases, the owner of the land required that all the produce shall remain his property until the rent is paid. There are various kinds of leases where the sanctity of

rent is very much emphasised. The due payment of rent is considered an essential condition for the enjoyment of the rights of raiyats. That is the fundamental basis of the tenancy legislations of the West.

The position in Madras.

In Madras, a landholder is entitled to recover any arrear of rent by a suit before the Collector, by distraint and sale of movable property or by sale of a raiyat's holding. (Section 77 of the Madras Estates Land Act of 1908, as amended by Acts IV of 1909, VIII of 1934 and IV of 1936.) In a suit for arrears of rent, if the rate of rent is disputed by the tenant, the same can be determined by the Collector. No separate suit for determining the same is necessary. A suit for interest on arrears of rent is cognisable by Revenue Courts. When the landlord has resorted to Court and obtained a decree, he should not be allowed to distrain movable property in respect of the arrear for which he sued and obtained a decree. The articles exempted from distraint are: the necessary wearing apparel, cooking vessels, personal ornaments of a woman that cannot be parted with under religious injunctions, etc., and the ploughs and implements of husbandry, ploughing cattle and manure stocked by the raiyat, and such seed grain as may be necessary for the cultivation in the ensuing year. Section 112 of the Madras Estates Land Act marks the beginning of a series of sections under which the landholder is given the power in a summary way, without obtaining a decree for rent, to bring the holding of the defaulter to sale. The series of sections end with section 125 which says that when a sale is held all the title of other people are extinguished including encumbrances, and clear title is given to the purchaser. It is done on the analogy of land revenue sales, land being the first charge. The purchaser under rent-arrears is also given a similar title. Section 112 requires a notice to be given to the defaulter informing him that the amount is due, and that if he does not pay the amount or institute a suit within thirty days, the said holding will be sold.

The position in the Punjab.

In the Punjab suits by a landlord for arrears of rent, or the money equivalent of rent, are tried by Revenue Courts. The limitation for rent suits is three years. When a tenant is under agreement to pay rent and there is no satisfactory evidence as to the rate of rent payable, the Revenue Court should decree rent at a rate deemed to be fair and equitable.

Under the Agra Tenancy Act of 1926 the landholder is entitled to distrain any crops or other products of the earth standing or ungathered on the holding and any crops or other products of the earth which have been grown on the holding, and have been reaped or

gathered and are deposited on the holding or on a threshing floor or place for trading out grain, whether in the fields or in a homestead. But the landholder shall not be able to distrain any crop or other products more than thirty days before maturity, any crops or other products after they have been stored by the tenant, and any other property. The Agra Tenancy Amendment Act of 1931 provides that in case of any general refusal on the part of under-proprietors or tenants of any local area to pay arrears of rent, rates or cesses due by them to their landlords, the local Government may recover them as arrears of land revenue.

Our Committee has recited some of the provisions of the tenancy legislations in foreign countries and in other Indian provinces in the matter of realisation of rents to indicate, firstly, that the landlords of Bengal are badly situated; secondly, how the improvement of the machinery of collection of rents could be effected, and thirdly, how vital it is for a given land system to have an effective machinery for the purpose of rent realisation.

Sir Richard Temple's move to devise an effective machinery.

The British Indian Association has been agitating for an effective machinery for realisation of rent from the latter part of the nineteenth century. Sir Richard Temple, Lieutenant Governor of Bengal, observed in 1875: "I apprehend that the speedy decision of suits between landlords and tenants is very important to the future tranquillity of Bengal and that land revenue authorities are much better fitted than the Civil Courts can be to decide suits to the advantage of both parties concerned." In lending support to the Agrarian Disputes Act of 1876 as a temporary measure, passed through the iniative of Sir Richard Temple, the British Indian Association in a letter, dated 12th June, 1875, observed: "Now-a-days, if a number of raiyats were disposed to combine and resist payment, they could keep the zamindar at bay, for any length of time, and thus ruin him ultimately. The rent suit under the existing law is a regular civil suit. It is dilatory, expensive and harassing." Since then, the situation has much worsened. Sir Richard Temple was insistent on having an effective and simple machinery for realising arrears of rent in undisputed cases by empowering the Court or Collector, on an application from the landlord, to issue a notice to the raiyat, requiring him either to pay or to appear and show cause to the contrary and in the event of the raiyat neither paying nor appearing, the Court is to order attachment and sale of the defaulter's property. Sir Richard's period expired before his proposals matured and before leaving Bengal he recorded a Minute proposing to go on with the procedure-sections of the draft Bill[1] in order to

[1]The details of the draft Bill and the interesting turn that his (Sir Richard's) proposals took in the next few years culminating in the Tenancy Act of 1885 in the teeth of strong opposition from zamindars are discussed in Mr. Sachin Sen's "Studies in the Land Economics of Bengal," pages 228-258.

furnish zamindars with a simple mode of procedure for realising undisputed rents. But the turn of subsequent events was so peculiar that the proposals of Sir Richard Temple were left in the background.

After the preparation of record-of-rights, a simple and even a summary procedure for realisation of rents cannot be objectionable. Where rights are recorded and rates of rent fixed, the delays of rent suits can hardly be justified. Our Committee has broadly indicated how the machinery for the realisation of rent could be simplified; it does not want to burden the reply with detailed suggestions. But it strongly urges on the Commission that without any such effective machinery, the landowning community cannot for long keep its foothold on grounds made treacherous by restrictive tenancy and other legislations, and a hostile agrarian agitation.

How certificate procedure functioned without hardship.

Q. 90. Results of the operation of the certificate procedure on the strength of the statistics collected from Land Revenue Administration Report, are shown in Statement XII of the list of statistical abstracts, circularised by the Land Revenue Commission. The statement is given below—

	Average for 10 years up to 1936-37.
(A) Number of institutions ...	150,799
(B) Number disposed of ...	112,997
(C) Percentage of cases in which payment was made on issue of notice ...	23·3
(D) Percentage of cases in which payment was made on attachment ...	59·7
(E) Percentage of cases sold ...	13·1
(F) Percentage of cases in which body warrants were issued but realisation made without imprisonment ...	3·9

The above figures clearly indicate that raiyats make better payments under certificate procedure, which is neither harassing nor objectionable. Therein, they find the necessary incentives to payment. Our Committee may assume that the realisation of arrear rents is a sacred obligation and that the active co-operation of Government may legitimately be asked for by them. Body warrants and imprisonments may be objectionable, but the percentage of cases in which realisations were made by issuing body warrants without involving imprisonment was very meagre; payment came in at the issuing of notice and on attachment of property. If the attachment of the property of a defaulting tenantry to realise legitimate arrear rents be "harassing and objectionable," and if we are told so, it is certain that no land system in any

part of the globe can function. Well-wishers of tenantry, and authorities on land problems, have nowhere pleaded for showing "tenderness" to the defaulting tenantry; rather, they have devised ways and means so that they may not fall into the trap of defaulting payment of rent. Florence Nightingle[1] (known as the "Lady with the Lamp"), a great friend of the raiyats of Bengal, observed in connection with the Arrear of Rent Realisation Bill, 1878: "It may be admitted, even by the best friends of the raiyats, that there is need of an easier and less expensive process for realising undisputed rents in the interest of the tenants who have to pay costs." Arthur Young, a great friend of the Irish tenantry, seriously objected to showing "tenderness" to the defaulting tenantry.

Number of landlords possessing certificate power is small.

Our Committee gives below the following statistical information within its possession:

(A) Number of landlords enjoying the privilege of certificate power under Section 158A of the Bengal Tenancy Act	...	210
(B) Number of certificates under Section 158A pending from 1936-37	...	12,987
(C) Number of certificates under Section 158A field during 1937-38	...	31,011
Total	...	43,998
(D) Number of certificates cancelled	...	2,619
		41,379
(E) Number fully discharged	...	26,981
(F) Number of certificates pending at the close of 1937-38	...	14,398

These figures show that the number of private landlords enjoying the privilege of certificate power under section 158A of the Tenancy Act is very small, and that there have been speedier and more effective and less costly realisations compared to the disposal of rent suits in Civil Courts. This small concession, available to a few private landlords, has been withdrawn in the last amendment of the Bengal Tenancy Act.

The need and importance of speedy realisation of rents.

Our Committee, however, urges that the basic principles and provisions of the Public Demands Recovery Act of 1913 may be followed in the matter of devising a machinery for speedy realisation of rents. If the sanctity of rent is recognised, and the punctual payment thereof appreciated both by Government and the tenantry, the framing of an

[1]Vide "Florence Nightingle's Indian Letters (1878-82)" edited by Prof. Priyaranjan Sen, published in 1937.

effective machinery does not tend to be a difficult problem. Our Committee is apprehensive because in the contours and shapes of the new demands of the tenantry which are receiving the sympathetic attention of Government, there is an eloquent absence of the recognition and appreciation of the sanctity of rent.

Q. 91. Our Committee admits that the revenue laws in the province are complicated. The zamindari system is based on the Regulations of 1793, and as such, they cannot, and should not, be touched if the institution of landlordism is preserved. The Bengal Tenancy Act does not purport to be a complete code in respect of the landlord and tenant; the preamble of the Act shows that it is intended to amend and consolidate only certain enactments relating to the law of landlord and tenant. The special procedure for the realisation of rents in estates under the management of the Court of Wards or of the revenue authorities, the special procedure for the realisation of rents in estates belonging to Government, the details of the law relating to the avoidance of tenancies by a sale for arrears of Government revenue, the effect of a partition of a revenue-paying estate upon tenancies therein and some other points have not been dealt with in the Tenancy Act. Our Committee does not object to codifying revenue laws in a simple form in conformity with the land system based on the Regulations of 1793, but such an attempt will presuppose the minute examination of the existing statutes and of the extent of their modification by judicial decisions. It is not possible for our Committee, at this stage, to describe its recommendations on the alteration or modification of any specific legislative enactment or provisions thereof. All this will require very close revision in the light of judicial decisions and practical difficulties.

Q. 92. Our Committee has made its detailed criticisms on the Bengal Tenancy Act. There are other Revenue Laws and Regulations which have given rise to practical difficulties in their working but it has not been possible for our Committee to examine them and detail its suggestions thereon to remove the hardships on both landlords and tenants. Revenue Laws or Regulations have far reaching effects, and on the strength of the provisions of the existing laws many new rights are created and confirmed; their amendments or repeal require very minute examination, which it has not been possible for our Committee to devote, nor can it be possibly given unless we can know the nature of the reforms to be adopted and the extent of the rights to be safeguarded.

Bengal Tenancy Amendment Act, 1938, hampers functioning of landlord-tenant system.

Q. 93. The economic effects of the Bengal Tenancy Amendment Act of 1938 have been damaging principally to landlords and also to actual cultivators. The Act has seriously hampered the functioning of the landlord-tenant system, and led to the increasing misery of actual

cultivators. The Permanent Settlement Regulation I of 1793 undoubtedly provided for future tenancy legislations for the protection and welfare of raiyats, but the reform of tenancy system was definitely meant to be attempted to guard raiyats against the exactions and oppressions of landlords;[1] the enactment of provisions in disregard of the basic principles of the Permanent Settlement was unwarranted. But such an unwarranted legislation was first attempted in 1859; the attempt was continued in 1885 and it seemed to reach its culmination in 1928 and 1938.

Some of the inequitable provisions of the Bengal Tenancy Amendment Act, 1938.

Some of the prejudicial effects which are likely to follow from the new Act of 1938 are described below—

(1) The landlord's right of pre-emption has been done away with. It will have two results: (A) the landlord loses the last right of regulating the choice of tenants. Bad tenants, or tenants who are not to the liking of landlords, when thrust on landlords, are not helpful for the functioning of the landlord-tenant system. The value of landlord's right naturally shrinks to nothing. (B) The right of pre-emption, considered economically, keeps up the prices of lands. Any transaction defrauding the raiyat of the real value of holding could be stopped by the landlord exercising his pre-emptive right; the very fact that a third party exists, who can step in, reduces the chances of faudulent transactions and maintains the prices of lands at a normal level. The abolition of the right of pre-emption has nothing to do with the improvement of farms or farmers. The Hon'ble Mr. Ilbert, who was a great friend of raiyats, in moving for leave to introduce the Bengal Tenancy Bill, 1883, made the following significant observations:

[1]The necessity of Government interposition for the protection of the raiyats was emphasised and provided for with a view to prevent landlords from imposing taxes and abwabs on raiyats. Lord Cornwallis in his Minute of the 3rd February 1790, enunciates the position very clearly: "I agree with Mr. Shore that some interference on the part of the Government is undoubtedly necessary for effecting an adjustment of the demands of the zamindars upon the raiyats, nor do I conceive that the former will take alarm at the reservation of this right of interference, when convinced that Government can have no interest in exercising it but for the purposes of public justice. Were the Government itself to be a party in the cause, they might have some grounds for apprehending the result of its decision.....I do not hesitate, therefore, to give it as my opinion that the zamindars neither now nor ever could possess a right to impose taxes or abwabs upon the raiyats; and if, from the confusion which prevailed towards the close of the Moghul Government or neglect or want of information since we had the possession of the country, new abwabs have been imposed by the zamindars or farmers, the Government has an undoubted right to abolish such as are oppressive and have not been confirmed by a competent authority, and to establish such regulations as may prevent the practice of like abuses in future." Those who will glance through the provisions of the Bengal Tenancy Act will find that on the plea of preventing "the like abuses in future," fundamental rights of landlords have been infringed upon, new conditions of tenancy created, contractual rights ignored and the whole land-system complicated to the prejudice of landlords and actual tillers—an eventuality which was and could be hardly contemplated by the framers of the Permanent Settlement.

"The landlord is concerned only to see that we do not allow an objectionable tenant to be forced on him against his will, and this we can readily guard against by giving him a right of pre-emption or something equivalent to a right of pre-emption in every case of transfer." What Mr. Ilbert apprehended in 1883 and wanted to guard against was achieved in 1938 without the necessary safeguard.

Moreover, the pre-emptive right of landlords is considered a sound practice. Whoever be the landlord, the State or the private person, he should have the right to purchase to the exclusion of the right of strangers to come in. In Denmark where peasant proprietorship subsists, if the proprietor desires to transfer land to any person who is not his legitimate heir, the State has a right of pre-emption of the land and buildings, adding thereto the expenditure of the proprietor for the increase or improvement of the farm, as well as of the improvements arising from the labour and capital of the proprietor. It is an unsound legislation that landlord is deprived of the right of pre-emption and he is thereby handicapped to play his role. The Tenancy Act is thus evidently indifferent to the functions of landlordism. It is one thing that the landlord's right is prejudiced, which has been done by the abolition of the right of pre-emption; it is quite another thing that the functioning of the land system is handicapped, a point which our Committee is urging emphatically in this connection for the consideration of the Commission.

(2) Raiyats having occupancy rights are clothed with the unrestricted right of transfer of holdings. This question can be approached from two angles: firstly, the grant of the unrestricted right of transfer is harmful to agriculture. The tendency of modern tenancy legislations in Europe and other places is to restrict the right. In a scheme of peasant proprietorship or State landlordism or private landlordism, we do not meet with such right in Europe, so that (*a*) the economic unit of the holding may not be disturbed; (*b*) those who are best qualified for the purpose of cultivation may not be deprived of their access to the buildings; (*c*) land speculators may not appear in the scene and play the role of worst landlords under the garb of raiyats; (*d*) the increase of the credit power may not ensnare the raiyat in the coils of easy and cheap money. There are various considerations in the interest of agriculture which emphasise the restriction of the right of transfer of the raiyat. In fact, a raiyat cannot be rescued helped and brought under any plan of reorganisation, if he is given full freedom to deal with the land in a manner prejudicial to his status and to the productivity of land. In this wise, the new right of unrestricted transfer will be ultimately prejudicial to agriculture and agriculturists. Our Committee has all along advocated that the unrestricted right of transfer should not be given to raiyats; if at all conceded, the extent of land alienation should be restricted to agriculturists. In the matter of

restricting the right of alienation of lands our Committee does not, however, propose to follow the Land Alienation Act of 1901 in the Punjab and the later amendments thereto. There the Act has created a stautory class of agriculturists holding the highest positions in State service and carrying on trade, moneylending or any profession. The growth of such an agricultural class leading to the creation of an artificial socio-economic group at the cost of non-agricultural classes has little meaning, less justification, and is extremely unsuited to the needs of our agriculture in the province. Our Committee is always in favour of protecting resident, hereditary cultivators and of rescuing them from exploitation by outsiders, but the Tenancy Act of 1938 is the very antithesis of such a concept. The Hon'ble Sir Richard Garth, the Chief Justice of Bengal, observed: "I should have thought that the most effectual way of protecting such people (meaning the raiyats of Bengal) and preventing them from wasting their substance would be to secure them a permanent interest in their property by prohibiting the alienation of it in any shape or way. They might be allowed to underlet in the case of minors, lunatics or others labouring under disability; and some means might be taken for protecting (for a time at least) present interests which have been created by way of under-lease. But I should have said that with these exceptions, it would be more prudent to prevent underletting altogether." Similar observations in a similar strain come from distinguished authorities and find corroboration from the provisions of the latest land experiments in the West.

Secondly, the unrestricted right of transfer to raiyats with occupancy rights vitally affects the right of landlords in choosing their tenants, and it was a right which was inherent in them by virtue of the incidents of ownership and confirmed by the Regulations of 1793. The invasion of landlord's right is meaningless; an occupancy raiyat is allowed to get rid of occupancy right or transfer his interests. Through the unrestricted right of transfer a raiyat will come and go without the consent of the landlord, and the relation between landlord and raiyat becomes mechanical. This taking away of "consent" involves a fundamental assault on the right of ownership issuing out of the performance of obligations. The Tenancy Act takes away this right without compensation[1] and without an eye to the interests of agriculture. The

[1]His Excellency the Governor-General withheld assent to the Madras Estates Land (Second Amendment) Act, 1934, because, in his opinion, the Act was expropriatory in that "it involves the loss of the Kudivaram of lands included in their inams by those inamdars who under the existing law would be in a position to establish their ownership of the Kudivaram, and that a measure producing this result with no provision for the compensation of persons adversely affected should not be allowed to become law." Accordingly, the Madras Estates Land (Third Amendment) Act, 1936, provides that if an inamdar proves that the Kudivaram right in any land which does not satisfy the requirements of private land was vested in him on the 1st November 1933, he is entitled to compensation for the loss of the said right. But in Bengal the landlord was deprived of his right to have anything to do with the choice of his tenant, a right very vital to the institution of landlordism, but the question of compensation was side-tracked.

money value of the consent was statutorily fixed by section 26D of the Tenancy Act in 1928 and the new Act extinguishes both the money value and right of consent. The landowning community thus loses enormously, both in money and in the content of right.

(3) The suspension of the provisions regarding enhancement of rent will lead to the under-capitalisation of land. The provisions regarding abatement of rent remaining intact, it was unfair to landlord to, practically, do away with the provisions in the matter of enhancement of rent. Moreover, we have shown previously that the landlord's right to enhance rent is essential in the interest of efficient farming. Low rent is accompanied by low farming. In any scientific theory of rent the opportunities of enhancement, on legitimate grounds shown, are never bolted.

(4) The deletion of section 158A of the Tenancy Act, whereunder a private landlord could apply to the local Government for availing himself of the provisions of the Public Demands Recovery Act of 1913 in the matter of realisation of arrear rents, is extremely unwise and unfair, the more so when there has been no effective machinery, devised anew, for speedy realisation of rents. The Tenancy Act of 1938 raises serious apprehensions in the minds of landlords because it is felt that Government is not evidently alive to the need for prompt payment of rents by raiyats. The amendment of section 147 by restricting the successive number of rent suits is a definite encouragement to raiyats to default payment of rents. The accumulation of arrear rents and the indirect encouragement to the mentality of non-payment of rent by laxing and deleting relevant provisions of the Tenancy Act are fatal to the institution of private landlordism.

(5) The reduction of the rate of interest to six and a quarter in the amendment of section 67 will administer a deep cut across the contractual rights of landlords, in addition to the financial loss involved therein for the landlords. This reduction is already having a disparaging effect on the matter of payment of rents. The incentive of payment of dues in time by raiyats is lost because of a lower rate of interest on arrear rents. The landowning community is already feeling hurt by this new amendment.

(6) Under the new amendment of section 88, there can be a division of a tenure or holding, or a distribution of rent payable in respect thereof, by the order of the Civil Court without the consent of landlord.

That is a clear infringement of the right of the landlord. Moreover, the division of the holding may be made which would result in bringing the rent for any portion upto one rupee. That is practically permitting the division of a holding to one bigha which is unreasonably small and uneconomic. Such a division prejudicially affects raiyats and ultimately damages landlords because they cannot play their part well under a system of uneconomic holdings.

(7) The substitution of a new section for section 86A, regarding abatement of rent on account of diluvion and re-entry into lands which re-appear, is definitely damaging to landlords. It is fair that the raiyat will have abatement of rent on account of diluvion, but how can the same equity dictate that the landlord will not have freedom to settle at an enhanced rent when the lands reappear, especially when those lands become more productive after reappearance. All this is a definite invasion on the proprietary right of landlords.

(8) The state of actual tillers who have no occupancy right is further worsened by the fact that the freer commercialisation of the occupancy right will lead to further rack-renting oppression of the cultivating classes. The Act has adversely affected the value of proprietary right of the landlord, and naturally the value of landed property has shrivelled. The occupancy right has been, in fact, made more valuable and prize-worthy than the proprietary right, and in the game of enhancing the value of occupancy right at the cost of the landowning right, the interests of farms and farmers have been coldly neglected.

Abolition of transfer fees curtails landlord's income.

The estimate of the loss of landlord's income owing to the abolition of the transfer fees is, on the authority of a statement by the Hon'ble Revenue Minister (Sir B. P. Singh Roy), in the neighbourhood of Rs. 40 lakhs, and the middle classes of Bengal, already hard hit by the economic depression, are laid low by this fatal blow.

Addenda to question 3.

In answer to question 3 the Committee supplied certain figures illustrating the contributions of some of the distinguished Houses of Bengal towards the economic regeneration of Bengal. The figures undoubtedly suffer from incompleteness, but they seek to indicate, although in an imperfect manner, the liberality and sense of responsibility of the landowning community. The figures of some other Houses, not mentioned in the answer, are collated and given below as illustrations. There are hundreds of estates whose figures are not mentioned here and even in respect of the Houses whose contributions are

placed on record, there is no near approach to completeness. These figures are to be taken merely as illustrative.—

The Estate of Maharaja, Mymensingh.

District—Mymensingh.

Name of the Estate—Maharaja Mymensingh Estate.

Education—Rs. 9,32,180.

Medical Help—Rs. 4,88,600.

Religious Charities—Rs. 7,00,300.

Water Supply—Rs. 2,00,000.

Roads, etc.—Rs. 1,00,250.

Industrial and Agricultural Development—Rs. 5,92,300.

Miscellaneous—Rs. 12,09,500.

Total Contributions—Rs. 43,23,030.

The Estate of Satyendra Chandra Ghosh Maulik.

District—Murshidabad.

Name of Estate—Satyendra Chandra Ghosh Maulik Estate.

Education—Rs. 74,800.

Medical Help—Rs. 1,23,000.

Total Contributions—Rs. 1,97,800.

The Estate of Pramatha Nath Roy Choudhury.

District—Mymensingh.

Name of the Estate—Santosh.

Education—Rs. 1,67,500 excluding contribution to Calcutta Sahitya Parishad and establishment of High School in Pogaldighar.

Medical Help—Rs. 1,05,035.

Religious Institutions—No financial record. Established "Bindubashini Debalaya" at Santosh at a cost of many thousands of rupees, spent Rs. 3,000 for Darga at Kagmari. Established Darga at Dighoolia, and donated more than thousand bighas of lands for religious purposes, contributed land for Namaj and so on.

Water Supply—No financial record, though as many as 19 tanks, 8 wells, and one very big tank at Santosh at a cost of more than Rs. 1,00,000 were built.

Roads—Donated all lands for roads in Tangail and land of 14 acres for Tangail Coronation Park.

Industrial and Agricultural development—Donated more than Rs. 1,00,000 towards (1) Oriental Soap Factory; (2) Factory at Chitratali; (3) Paragon Press; (4) Handloom Factory.

Miscellaneous—(*a*) Barahanagar Anath Asram—Rs. 200 and annually Rs. 20. Also established *hats* and markets in various places, donated lands for playgrounds, grazing fields, etc.

The Estate of Manmatha Nath Mookerjee.

District—Twenty-four Parganas.
Name of the Estate—Manmatha Nath Mookerjee Estate.
Education—Rs. 21,350.
Medical Help—Rs. 6,150.
Religious Charities—Rs. 1,12,000.
Water Supply—Rs. 6,000.
Industrial and Agricultural Development—Rs. 60,700.
Miscellaneous—Rs. 2,150.
Total Contributions—Rs. 2,09,634.
Recurring Expenditure of the Estate—Rs. 1,284.

The Estate of Nirmal Chandra Biswas.

District—Hooghly.
Name of the Estate—Nirmal Chandra Biswas Estate.
Education—Rs. 1,10,400.
Medical Help—Rs. 125.
Religious Charities—Rs. 1,00,000.
Water Supply—Rs. 21,000.
Roads, etc.—Rs. 2,500.
Industrial and Agricultural Development—Rs. 19,000.
Miscellaneous—Rs. 1,255.
Total Contributions—Rs. 2,54,880.
Recurring Expenditure of the Estate—Rs. 600.

The Makhalpore Family Estate.

District—Hooghly.
Name of the Estate—Makhalpore Estate.
Education—Rs. 37,020.
Religious Charities—Rs. 96,000.

Roads, etc.—Rs. 800.

Industrial and Agricultural Development—Rs. 43,775.

Total Contributions—Rs. 1,77,645.

The Estate of Aghore Bandhu Guha.

District—Mymensingh.

Name of the Estate—Estate of Aghore Bandhu Guha.

Education—Rs. 1,55,000.

Medical Help—Rs. 8,000.

Religious Institutions—

Water Supply—Tube-wells at Bahirsimul.

Roads, etc.—Khals and roads at Bhelua and Haluaghat police-stations respectively.

Industrial and Agricultural Improvements—Established East Bengal Commercial Bank with branches in various places.

Miscellaneous—Three *hats* are maintained.

Recurring Expenditure made by the Estate—Rs. 3,240 (for education).

Remarks—Established Mrityunjoy H. E. School and Radhasundari H. E. School for girls in Mymensingh. Established East Bengal Commercial Bank, also "Jagadamba Ayurveda Vidyalaya," at Benares.

The Upashi Estate.

District—Faridpur.

Name of the Estate—Upashi Estate.

Education—Rs. 11,400 (valuation of land granted not included).

Medical Help—Rs. 815 (excluding valuation of lands granted).

Water Supply—Canals and tanks constructed. One canal 3½ miles long was constructed in Charbhuta.

Roads, etc.—Rs. 4,430.

Miscellaneous—Markets established in Kaliganj, Alabaddi, etc. Profusely helped in famine of 1274 and flood of 1283.

The Kalipara Estate.

District—Dacca.

Name of the Estate—Zamindar, Kalipara, P. O. Medinimandal, Dacca.

Education—A High School at Kalipara, Sanskrit tol in Kalipara; a Middle Vernacular School at Medinimandal; one High School at Champakdi village and two Libraries.

Medical Help—One charitable dispensary at "Kalipara."

Religious Institutions—Monetary help as annual grants to priests, at Kashi, Gaya, Muttra, Brindaban, Hardwar, Chandranath, Kamakshya, etc., and temples in the locality, large grants towards building of stone steps at Chandranath.

Water Supply—Constructed 23 tanks, some of big size known as "Dighis".

Roads, etc.—Pucca roads at Kalipara and Kusumpur and Khals in Kalipara and Palong, Faridpur. Pucca roads at Medinimandal and Champakdi.

Miscellaneous—Grazing lands in Kalipara and elsewhere, markets in various villages in Faridpur, Dacca, Barisal; guest houses in nearby villages.

The Estate of Kamakshya Chattopadhya and Others.

District—Faridpur.

Name of the Estate—Estate of Kamakshya Chattopadhya and others.

Education—Rs. 31,615.

Medical Help—Rs. 2,160.

Water Supply—Rs. 35,850. Also tanks in two villages.

Roads and Canals—Many khals and roads of which one big road taken over by the District Board. Rs. 3,025 for canals in certain areas and Rs. 1,000 for a road at Damda.

Miscellaneous—Rs. 1,235.

Total Contributions—Rs. 70,760 (approximately).

The Estate of Sawran Kumar Saha.

District—Barisal.

Name of the Estate—Swarna Kumar Saha's Estate.

Education—Rs. 200.

Medical Help—Rs. 500.

Water Supply—Tanks in certain places.

Roads and Canals—Certain Roads and Khals.

Miscellaneous—Contribution to Banaripara Asram. Guest house in Tushkhali station, etc.

The Baisharashi Estate.

District—Faridpur.

Name of the Estate—Baisharashi Estate.

Education—Rs. 76,840.

Medical Help—Rs. 7,000.

Religious Institutions—Rs. 56,000.

Water Supply—Rs. 43,000.

Roads and Canals—Rs. 5,000.

Industrial and Agricultural Improvements—Rs. 2,000 (canals).

Miscellaneous—Rs. 16,000.

Total Contributions—Rs. 2,05,480.

Recurring Expenditure—Rs. 6,800.

Remarks—Established Rajendra College, Faridpur, Female ward called "Kamini Sundari Ward" in Sadar Hospital, Faridpur, and "Kamini Sundari Chatuspathi" at Barisal.

The Estate of Digindra N. Ghose.

District—Dacca.

Name of the Estate—Digindra N. Ghose's Estate, Harbaida, Dacca.

Education—One primary school in own village.

Religious Institutions—One Musjid for Muslims, and lands for worship of Hindu temples and Muhammadan festivals of about 36 acres.

Water Supply—4 tanks in four villages.

Roads and Canals—3 big roads in own village.

Industrial and Agricultural Improvements—One big canal for agricultural purposes.

Miscellaneous—Playground in own village and also market.

Total Contributions—Rs. 6,000 (approximately).

The Estate of Abdul Gafur Niparthasya.

District—Barisal.

Name of the Estate—Abdul Gafur Niparthasya's.

Education—Land for school and money for building and monthly grant.

Medical Help—Lump sum grant towards dispensary and casual donations.

Religious Institutions—Wakf properties for religious purposes.

Water Supply—4 or 5 tanks.

Roads and Canals—4 roads from Baleswari River.

Industrial and Agricultural Improvements—3 or 4 canals for agriculture.

Miscellaneous—Playground and financial grant towards improvements of sports.

Total Contributions—Rs. 10,000 (approximately).

The Estate of Promathanath, Muktagacha.

District—Mymensingh.

Name of the Estate—Promathanath's Estate, Muktagacha, village Iswargram.

Education—Rs. 574.

Medical Help—Rs. 200. Also 25 rugs to Mymensingh Hospital.

Water Supply—Rs. 2,000.

Miscellaneous—Rs. 599 towards earthquake and flood relief, also charities out of Government paper worth Rs. 10,000.

Total Contributions—Rs. 3,373 (approximately).

The Dhala Estate, "Bara Hissya".

District—Mymensingh.

Name of the Estate—Dhala Estate. "Bara Hissya."

Education—Built High School at Dhala and donated land for the purpose; monthly grant Rs. 50; land for School at Kishoreganj; big lump sum grant towards Mymensingh College.

Medical Help—Charitable dispensary at Dhala and land for the purpose; annual grant Rs. 150; Rs. 12, annually to Mymensingh Lady Dufferin Fund. Land for Hospital at Kishoreganj. Big lump sum grant towards Mymensingh Surjya Kanta Hospital.

Religious Institutions—Rs. 2,000.

Water Supply—Arrangements for drinking water in various places in the Estate.

Roads and Canals—Built 3 or 4 roads in collaboration with District Board and donated land for the purpose.

Miscellaneous—Built station, burning ghats, and donated lands for courts, post office, jail in Kishoreganj.

Total Contributions—More than Rs. 1,00,000.

Recurring Expenditure—Rs. 762.

The Baliati Ten Annas Estate.

District—Dacca.

Name of the Estate—East House Ten Annas Estate. Baliati (Dacca).

Education—Rs. 100 towards Girls' School, Mymensingh, and playground to Gheor School. Iswarchandra School at Baliati at a cost of Rs. 1,00,000.

Medical Help—Lump sum donation of Rs. 312-8 to Manickganj Charitable Dispensary also monthly subscription. Rs. 500 towards Ramkrishna Mission Charitable Dispensary.

Religious Institutions—Established "Madhab Gauranga Math" at a cost of Rs. 60,000 and several other temples and religious institutions in various nearby places.

Water Supply—"Jenkens-tank" in Manickganj, a big tank in Tangail, also tube-wells and wells in certain other villages.

Miscellaneous—Several *hats* and markets, established burning ghats and helped in times of famine, flood, earthquake, etc.

The Estate of Jagabandhu Dhar.

District—Mymensingh.

Name of the Estate—Jagabandhu Dhar's Estate, Gazaria, Mymensingh.

Education—Rs. 1,615 and contribution to school in own village.

Medical Help—Rs. 1,565 and established charitable dispensary in own village.

Religious Institutions—Donated building to Siva temple, Simulkandi Mosque in own village, and Jumna Mosque in Bajitpur.

Industrial and Agricultural Improvements—Constructed canal for agriculture in Mauza Gazaria.

Miscellaneous—Established markets in several villages, as also burning ghats; gave lands for grazing and donations to certain funds.

Total Contributions—Rs. 3,180 (approximately).

The Estate of G. Ghose.

District—Dacca.

Name of the Estate—G. Ghose's Estate.

Education—Rs. 14,100 also another Higher Primary School and maintenance.

Medical Help—Rs. 18,000.

Religious Institutions—Rs. 300 and monetary help towards guest houses in sacred cities.

Water Supply—Rs. 20,700 also another tank.

Roads and Canals—Built certain roads and canals.

Miscellaneous—Rs. 500 to famine funds and bazars in certain places also other petty charities.

Total Contributions—Rs. 53,600 (excludes items whose monetary valuations are not available).

The Ulania Joint Estate.

District—Barisal.

Name of the Estate—Ulania Joint Estate.

Education—Rs. 27,465.

Medical Help—Rs. 412.

Religious Institutions—Rs. 42,535.

Water Supply—Rs. 500 also many tanks whose monetary valuations are not available.

Roads and Canals—Rs. 495. Also other roads whose monetary valuations are not available.

Industrial and Agricultural Improvements—Rs. 3,100.

Miscellaneous—Rs. 2,100. Also established market. Also petty charities.

Total Contributions—Rs. 76,607.

Recurring Expenditure—Rs. 3,275.

The Hemnagar Estate.

District—Mymensingh.

Name of the Estate—Hemnagar Estate.

Education—Rs. 72,597.

Medical Help—Rs. 8,833.

Religious Institutions—Rs. 1,69,640.

Water Supply—Rs. 55,430.

Industrial and Agricultural Improvements—Rs. 15,291.

Miscellaneous—Rs. 1,08,557.

Total Contributions—Rs. 4,30,348.

Recurring Expenditure—Rs. 25,668.

Remarks—Noted for widespread donations in various religious, medical, educational and other institutions.

The Maloochi Estate.

District—Dacca.

Name of the Estate—Maloochi Estate.

Education—Established 4 minor schools and 4 girls' schools.

Medical Help—Rs. 1,35,000 and free medical help to eradicate malaria.

Water Supply—A number of wells, tanks, and tube-wells in some villages.

Roads and canals—Rs. 5,000. Also several other roads and canals.

Industrial and Agricultural Improvements—Organised scientific agriculture and arranged lectures for improvement.

Miscellaneous—Some markets and *hats*.

Total Contributions—Rs. 1,40,000 (approximately).

Donations towards the establishment of the Carmichael Medical College.

		Rs.
1.	Raja Profulla Nath Tagore ...	25,000
2.	Maharajadhiraja Bahadur of Burdwan ...	10,000
3.	Kumar Bishnu Prosad Roy ...	6,000
4.	Lord Sinha of Raipur ...	5,000
5.	Mr. Bhupendra Nath Basu ...	5,000
6.	Sir B. C. Mitter, Kt. ...	4,000
7.	Kumar Arun Chandra Sinha ...	2,500
8.	Messrs. Nirmal Chandra and Kamal Chandra Chandra ...	2,000
9.	Raja Peary Mohan Mukherjee of Utterpara ...	2,000
10.	Babu Monohar Mukherjee ...	2,000
11.	Raja Sati Prasad Garga Bahadur of Mahisadal ...	1,250
12.	Rai Gopal Prosad Garga Bahadur ...	1,250
13.	Raja Kristo Das Law ...	1,000
14.	Raja Reshee Case Law ...	1,000
15.	Rai Debendra Nath Ballav Bahadur ...	1,000
16.	Kumar Manindra Chandra Sinha Bahadur of Paikpara ...	1,000
17.	Mr. Nanda Lall Gupta ...	1,000
18.	Raja Sreenath Roy ...	1,000
19.	Mr. G. C. Gupta ...	1,000
20.	Dr. Rabindra Nath Tagore ...	500
21.	Messrs. G. N. Tagore & Bros. ...	500
22.	Raja Promodanath Roy of Dighapatia ...	500
23.	Mr. Chandi Churn Law ...	500
24.	Mr. Ambica Churn Law ...	500
25.	Kumar Manmatha Nath Mitter ...	500
	Total	76,000

Carmichael Medical College, Belgachia.

Donors who paid donations for the construction of blocks or constructed blocks at their cost or endowed beds and wards in the hospital attached to the Carmichael Medical College:—

	Rs.
1. H. H. the Maharaja of Tripura pays Rs. 1,200 a year for the maintenance of the Maharani Tulsibati Ward ...	1,200
2. Raja Debendra Nath Mullick constructed the ground floor of the outdoor of Carmichael Hospital named after him ...	1,13,000
In addition to the above the monthly subscription from the Estate for the maintenance of beds and outdoor (recurring monthly grant) ...	325
3. Maharaja Sir Manindra Chandra Nandy of Kasimbazar for the "block" in his name ...	7,000
4. Rani Kasturi Manjuri for the block in her name ...	40,000
5. Raja Gopendra Krishna Deb	500

Presidency College, Calcutta.

	Rs.
Maharaja Tej Chandra Bahadur of Burdwan ...	10,000
Babu Gopee Mohan Tagore ...	10,000
Raja Buddinath Roy ...	50,000
Babu Hurrynath Roy ...	20,000
Babu Kalee Sankar Ghosal ...	20,000
Gopee Mohan Deb of the Sobhabazar family, Joy Kissen Singh, grandfather of Kali Prasanna Singh, the translator of Mahabharat into Bengali.	Substantial contributions; exact amounts not known.

Medical College, Calcutta.

Donors of the Centenary Fund. (Landholders.)

		Rs.	a.
1.	Rai Bahadur Bhupati Nath Deb ...	99,179	4
2.	Raja Kamala Ranjan Roy of Cossimbazar ...	50,000	0
3.	Sir Hari Sankar Paul, Kt., and Mr. Hari Mohan Paul ...	20,000	0
4.	Hon'ble Sir B. P. Singh Roy, Kt. ...	4,000	0
5.	Dr. B. C. Law ...	1,000	0
6.	Raja P. N. Tagore ...	1,000	0
7.	Mr. Chandi Charan Law ...	500	0
8.	Mr. Satis Charan Law ...	250	0
9.	Mr. Bhabani Charan Law ...	250	0
10.	Mr. Tarini Charan Law ...	250	0
11.	Mr. Naresh Nath Mukherje ...	200	0
12.	Kumar Rajendra Narayan Roy ...	101	0
13.	Mr. T. P. Ghosh ...	100	0
	Total ...	1,76,830	4

Medical College, Calcutta.

	Rs.
Babu Dwarkanath Tagore founded early prizes to the value of Rs. 1,000 for the several classes and Government assisted in the same object ...	1,000
The Pertub Ch. Singh Ward (Donation Rs. 50,000)	50,000
The Sattya Charan Ghosal Ward (Donation Rs. 10,000) ...	10,000
The Mutty Lal Seal Ward (Grant of land for hospital) ...	12,000
Maharanee Swarnamoyee placed a sum of Rs. 1,50,000 in 1884, for the promotion of female education. The Swarnamoyee Hostel attached to the Medical College was constructed out of this fund ...	1,50,000
In 1906 Maharaja of Darbhanga placed at the disposal of H. R. H. the Prince of Wales Rs. 1,00,000 and this amount was utilised for the completion of the Lady Minto Electrical Annexe ...	1,00,000

Donors to the Building of the New Lady Dufferin Victoria Hospital.

		Rs.
Radhika M. Roy Estate	...	500
Jan Bazar Ward Estate	...	250
Bhowanipore Ward Estate	...	500
Mahishadal Ward Estate	...	200
Raha Ward Estate	...	500
Total	...	1,950

List of Donors, Dufferin Hospital (old).

		Rs.
Raja Ashutosh Roy of Cossimbazar	...	1,00,000
Maharani of Huthwa	...	50,000
Raja Shib Chandra Banerjee of Bhagalpur	...	25,000
Maharaj-Kumar Bijay Chand Mahtab of Burdwn	...	25,000
Maharaja Rameswar Singh Bahadur of Darbhanga	...	20,000
Maharaja Manindra Chandra Nandy of Cossimbazar	...	10,000
Nawab Sir Khwaja Ashanullah Bahadur, K.C.I.E., of Dacca	...	10,000
Raja Rajendra Narain Roy Chowdhury Bahadur of Dacca	...	5,000
Raja Mahima Ranjan Roy Chowdhury of Kakina	...	5,000
Maharaj Surya Kanta Acharyy Chowdhury of Muktagacha	...	5,000
H. H. Radha Kishore Deb Barman Manikya of Tipperah	...	3,000
Kumar Dakshineswar Malia of Searsole	...	2,000
Nawab Sahar Banu Begum Saheba of Khagra	...	2,000
Rai Budh Singh Dudhuria Bahadur and Bijoy Singh Dudhuria of Azimgunje	...	1,000
Rani Hemanta Kumari Devya of Putia	...	1,000
Her Highness Nawab Sam-i-Jahan Begum Saheba of Murshidabad	...	1,000

		Rs.
Maharani of Darbhanga	...	20,000
Maharani Adirani of Burdwan	...	5,000
Maharani of Huthwa	...	5,000
Maharani Saheba of Bettiah	...	5,000
Maharani Saheba of Dumraon	...	5,000
Maharani of Cossimbazar	...	3,600
Rani of Baniali, Purneah	...	1,500
Maharani Saheba of Gidhaur	...	1,050
Wife of Rai Kamaleswari Prosad Singh Bahadur	...	1,000
Mother of Raja Jagat Kishore Acharyya Chowdhury	...	1,000
H. H. the Maharani of Cooch Behar	...	1,000
Rai Ganga Prosad Singh Bahadur of Darbhanga	...	10,000
Bettiah Raj	..	6,000
Raja Ram Narain Singh of Khaira	...	4,000
Shama Charan Law of Calcutta	..	5,000
Raja Rameswar Sing Bahadur of Darbhanga	...	5,000
Bungso Gopal Nandu of Burdwan	...	5,000
Nawab Sir Khwaja Abdul Gani, K.C.S.I., of Dacca	...	3,000
Maharani Swamnamoyee C. I., of Cossimbazar	...	2,000
The Nawab Bahadur of Murshidabad	...	2,000
Maharaja Gobinda Lall Roy of Rangpur	...	1,000
Maharaja Durga Charan Law, C.I.E.	...	1,000
Babu Janaki Nath Roy of Dacca	...	1,000
Total	...	3,59,150

School of Tropical Medicine, Calcutta.

Raja Birendra Chandra Sinha of Paikpara and Raja Debendra Nath Mallick and other landholders donated considerable sum towards the School of Tropical Medicine, Calcutta.

(*Corrected list*).

The Gouripur Estate.

District—Mymensingh.

Name of the Estate—Gouripur Estate.

Present Proprietor—Mr. Brojendra Kishore Roy Chowdhury.

Annual Recurring Grants—

		Rs.
Education	...	43,000
Medical Aid	...	13,800
Agricultural Development	...	14,927
(Embankments, khals, agricultural farms, etc.), Improvement Works	...	7,722
(Roads, hats, bazars, clearing of water hyacinth, etc.).		
Water Supply	...	3,150
Charities to persons and institutions, excluding staff and relations of the Zamindar	...	7,950
		90,549

The amount spent by the Gouripur Estate during the last fifty years on different works of public utility.

			Rs.
1.	Education	...	12,58,193
2.	Medical Aid	...	3,39,635
3.	Industrial Improvement (in round figures)	...	24,00,000
4.	Agricultural Development	...	2,17,977
5.	Improvement Works	...	4,93,860
	(Roads, hats, bazars, clearing of water hyacinth, etc.)		
6.	Water supply	...	2,52,491
7.	Charity to various persons and institutions, excluding the staff and relations of the Zamindar	...	7,93,893
8.	Religious Purposes	...	15,93,190
		...	73,49,239

Oral evidence of the British Indian Association, 13th and 14th March 1939.

PRESENT ON BEHALF OF THE ASSOCIATION.

(1) Maharaja Sashi Kanta Acharyya Choudhury, M.L.A., of Mymensingh.

(2) Raja Bahadur Bhupendra Narayan Sinha, M.L.C., of Nashipur.

(3) Mr. Tarak Nath Mukherjee, M.B.E.

(4) Mr. S. C. Ghose Maulik, C.I.E.

(5) Mr. P. N. Singh Roy.

(6) Mr. Sachin Sen.

In reply to the Chairman, Mr. Sachin Sen said that in the view of the Association the intentions of the Permanent Settlement have been carried out by the zamindars, but the series of Tenancy Acts from 1859 onwards has impaired the landlords' position seriously and the result has been that they can take little interest in the welfare of their tenants. He cited as examples the tenants' unrestricted right of transfer and the abolition of the landlords' right to choose their own tenants and to keep out undesirable tenants. The Association has no objection to occupancy rights being hereditary. The result of Tenancy legislation has been to increase subinfeudation, particularly subinfeudation below the occupany raiyat. In the Regulations the only subinfeudation envisaged is that between the zamindar and the raiyat.

Another result of subinfeudation below the occupancy raiyat has been that agriculture has been most prejudicially affected. Subinfeudation below the zamindar is rather a social question and has nothing to do with the interests of cultivation. It does not affect cultivation whether the landlord above the raiyat is a zamindar or a tenureholder. Subinfeudation below the raiyat leads to the creation of uneconomic holdings and to a tendency for raiyats to become mere rent receivers. Subinfeudation above the occupancy raiyat is really a diffusion of ownership, and has led to the development of a middle-class who have a stake in the country and who have invested their capital in developing agriculture. The landlord has one function and the tenant another. The business of the landlord is to invest his capital and apply his intelligence to the development of his estate: the duty of the tenant is to cultivate; and subinfeudation below the raiyats must lead to a deterioration in agriculture. He agreed that a tenureholder and a raiyat who sublet might both be regarded as rent receivers, but a raiyat who sublets is a *de facto* tenureholder. The view of the Association is

that occupancy rights should attach to the land and not to the person. Asked how the middle-classes, who are merely rent receivers, can influence the condition of agriculture he explained that the object of the Permanent Settlement was to interest zamindars and talukdars in the development of their estates. The trouble started with the Tenancy legislation which sanctioned subinfeudation among the raiyats. Had there been no such legislation it is likely that the middle-classes would have pooled their resources and done more to develop agriculture. When a zamindar creates a permanent tenure he parts with practically all his rights. Tenureholders have grown up as a result of social and economic factors. During the 19th century no other form of investment was possible. It was impossible for zamindars of large estates to manage them and to apply their capital to the whole of their estates: they therefore sublet to enterprising tenureholders who were in a position to do so. It might be argued that economically this procedure was unsound, but the Permanent Settlement has formed the basis of the province's social structure. It has certainly led to subinfeudation below the zamindar but this has had no harmful effects. It has built up a middle-class which serves as a bulwark against social upheavals The present system should not be abolished in the interests of society and of agriculture.

The present method for recovery of rents is very slow and cumbrous and Tenancy legislation has left no incentive to the landlords to spend capital on improvements. Even when improvements are made it is very difficult to obtain enhancements. Another drawback is the withdrawal of the right of pre-emption. Nowadays landlords are practically powerless to effect improvements. The Chairman enquired whether in the opinion of the Association the present system can survive under the existing conditions. Mr. Sachin Sen replied that under the handicaps of Tenancy legislation and the consequent agricultural deterioration, landlordism cannot flourish, and unless conditions improve it may be difficult for it to survive. The Chairman asked whether it will be practicable under present conditions to go back and restore the right of pre-emption, distraint, etc. Mr. Singh Roy replied that under modern political conditions progress cannot be retarded. There should however be restriction on free transfer which has greatly damaged agriculture. He would also propose that sales should be confined to agriculturists:—meaning not necessarily tillers of the soil, but all persons who have an interest in the land. He was in favour of preventing sales to speculators like moneylenders, and thought that such restrictions would be possible as have been tried in the Punjab by the Alienation of Land Act. If occupancy rights are taken away from every one except the actual tillers of the soil, the result would be to dispossess all the Hindu middle-classes.

He thought that collective farming as carried on in Russia would not be suitable in Bengal, where the rights in property are so individualistic. In order to carry out co-operative farming the rights of all the tenants concerned must be the same but in Bengal the rights of raiyats and under-raiyats are different. Indian opinion would not favour such a system. He would prefer the system of "small holdings" but not in the sense in which the term "peasant proprietorship" is used. That is a political catchword. If any system of peasant proprietorship is examined it will be found that individual rights have been taken away and vested in the State or a Country Council or some such body. The Chairman explained that small holders in England are directly under the State and are in the position of ordinary tenants. In Ireland the landlords were bought out and the tenants have acquired proprietary rights. Mr. Sen said that the Association would have no objection to the "small holdings" system and of giving proprietary rights to raiyats provided they pay for such rights.

As regards the Association's reply to question 14, Mr. Sachin Sen said that if the landlords are bought out and compensation is paid in cash no sinking fund would be necessary. He explained that the reply had been given on the assumption that part of the money will be paid in bonds and part in cash. If payment were made in bonds, the Association would expect non-terminable bonds to be granted; but if the bonds were made redeemable after a period, the question of a sinking fund would arise. In the case of an estate, valued at Rs. 20,000, if Rs. 5,000 compensation were paid in cash, and 5 per cent. interest paid on the balance of Rs. 15,000, then the principal would not be liquidated so long as the payment of interest continues. The sinking fund comes in when the principal has to be liquidated; and it depends whether the principal is liquidated by the State, or whether the tenants buy the proprietary rights from the State. If non-terminable bonds were granted the Association would have no objection. The bonds would be saleable and it is to be hoped that they would be honoured by future Governments.

The Chairman enquired whether in a scheme for the levy of agricultural income-tax the land revenue should be taken into account or should be excluded. Mr. Sachin Sen replied that whether land revenue is regarded as a tax or not, it deprives the landlord of a part of his income in the same way as cesses do. It would be extremely difficult for the landlords to bear any such tax. Mr. Sen pointed out that there are other difficulties connected with the question of tax on agricultural income. The Tea Industry for the development of which Scotland and Bengal have invested a good amount of money enjoys exemption of 60 per cent. of income from income-tax on the ground of its being agricultural. This industry will be seriously handicapped if a tax on

agricultural income is imposed. The Permanent Settlement has produced a prosperous middle-class and the income-tax paid by them is greater than that paid in any other province, because the middle-classes have, as a result of the Permanent Settlement, been given a higher purchasing power. It is not correct to say that the high percentage of income-tax paid in Bengal is the result of a concentration of industrial concerns in Calcutta. The Permanent Settlement has also resulted in a large income from Court fees, stamps, and customs duty. It is true that it has also resulted in litigation and it is believed that 60 per cent. of cases consist of rent suits. This source of taxation may not be regarded as being altogether desirable, but it is certain that one result of abolishing the Permanent Settlement would be a decrease in litigation and a great fall in the revenue from Court fees and stamps.

Mr. P. N. Singh Roy said that the British Indian Association is a body which comprises all the landlords of Bengal, Bihar and Assam.

The Association has made enquiries into the levy of abwabs. Practically speaking abwabs are not being realised nowadays, but it may be true that certain zamindari employees have realised them. When tenants are not even paying their rents it is hardly possible that landlords could realise abwabs. Some of their dishonest officers may levy abwabs without the knowledge and consent of the landlords, but the same is true of Government estates. He could also cite instances where gratuities are taken in Government offices. The system is embedded in the country. The Association has always deprecated this practice and has sent out appeals to landlords asking them to stop the practice. Many landlords have issued proclamations to their tenants that they should not pay them. It sometimes used to happen that naibs took something when they realised rents. The reason is that when the accounts are drawn out, the landlord is legally entitled under the Bengal Tenancy Act to a fee of 4 annas. They have not however insisted on this fee and the naibs have taken generally 2 pice per rupee for themselves. Zamindari employees are now better paid and generally get Rs. 10, Rs. 15 or more.

When rent is paid, it is to be credited to the year for which the tenant wishes to liquidate his arrears, but landlords naturally prefer to credit payments to the oldest arrears. The rent receipts show the year to which the payment has been credited. Nowadays the tenants know what are their rights even better than the landlords or the lawyers.

In reply to Khan Bahadur M. Hossain, Mr. Sachin Sen said that the Permanent Settlement has not outlived its utility and such a meaning could not be inferred from the words "falling off of liberality and vitality" in answer to question 3. Tenancy legislation has been the cause of the landlords' lack of interest in their tenants' welfare. He

explained that he is not against the grant of occupancy rights but thought that the main object of granting occupancy rights should be to benefit agriculture. The basis of occupancy right is freedom from arbitrary enhancement and freedom from eviction, subject to the punctual payment of rent. This was the idea that was in force from the days of the khudkasht raiyats, but nowadays the occupancy right is not attached to the land but may be attached to mere rent receivers. Agriculture ought to be the primary consideration of tenancy legislation. Tenancy legislation has not led to land going out of cultivation. Legislation has however led to subletting and consequently to holdings becoming uneconomic, with the result that it is more difficult for tenants to pay their rents. The laws of inheritance are one reason why holdings have become uneconomic but he did not agree that this is the cause in 90 per cent. of cases. Tenancy legislation allows sub-infeudation and subdivision of holdings:—had there been no such legislation, the present position might have been postponed for 50 years. There might have been legislation to prevent holdings being sub-divided below a certain area, although the shares might be subdivided through inheritance. There might be an arrangement by which one member of the family may cultivate; but the holding and the rent should not be split up. He agreed that before 1928, raiyat's right to sublet was restricted to a 9-year lease. The landlords' incentive to benefit their tenants has disappeared because improvements cannot be effected or enhancements obtained for them. It is true that the Tenancy Act provides for registration of improvements, but it is very difficult in practice to prove them and the section has been little used. Another reason is that the occupancy raiyat is virtually the owner of his holding and consequently it is difficult for the landlord to effect any improvement. It may be true that until 1928 the raiyats had no legal power to excavate tanks or cut trees, but they actually did so. In any case, this does not affect the question of the landlord's power to make improvements. He agreed that during the last 50 years few lakheraj grants have been made: the reason is that the landlords' incentive to make such grants was beginning to disappear as their margin of profit was decreasing. Khan Bahadur M. Hossain pointed out that the margin of profit for Bengal as constituted in 1793 was 20 lakhs and it has now increased to 10 crores. Mr. Sachin Sen replied that the profits at the time of the Permanent Settlement could not be compared with those of to-day. The country in 1793 was in an exhausted condition. With the extension of cultivation landlords' profits increased. Part of the profit however goes to the tenureholders. Cess and increased litigation have diminished the landlords' profits. In the 19th century, rent was more regularly paid. Nowadays, rents have to be realised to a much greater extent through the Courts. Collection has dropped very greatly during the last two years.

As regards the reply to question 24 he said that the zamindars may have been originally officers of Government, but the reply refers to the early Hindu times. Later, there came a period when landlordism developed, and the State began to deal with the landlords instead of dealing individually with the raiyats. Thus the landlords became the dominant factor and the raiyats' rights were subordinated. Rights in India are customary. Even if zamindars were originally officers of Government, they had developed to the status of proprietors by the Moghul period.

In reply to Khan Bahadur A. Momin, he said the Association's view is that raiyats had primarily the right of cultivation, and that if they did not cultivate they could be evicted.

Continuing to Khan Bahadur M. Hossain, he agreed that the Paramount Power has the power to modify the rights of landlords in accordance with the spirit of the Permanent Settlement Regulations. That Regulation reserved the right to Government to protect the rights of raiyats. But the Permanent Settlement is not to be judged simply by the criterion whether it has been for the greatest good of the greatest number. It has also to be considered whether the capital invested has been used in accordance with the expectations of the Permanent Settlement. If the present Government holds that the system should be changed, it may abolish the Permanent Settlement subject to the grant of adequate compensation under section 299 of the Government of India Act. The figure for the revenue paid by Bengal, Bihar and Orissa, viz., 2·85 crores was taken from authorities like Baden Powell. He agreed that the present revenue of Madras may be three or four times that of Bengal, but the figures in answer to question 5 represent the facts as they were at the end of the 18th century. He agreed that the Customs duty comes from foreign imports but it could not be called "undesirable" unless one lives in a world where the laws of supply and demand do not operate. As a result of the Permanent Settlement and the consequent higher purchasing power of the middle classes, Bengal has contributed largely to income-tax. The occupancy raiyats too have a higher purchasing power, but while the raiyats pay a low average rent, they have rack-rented their under-raiyats.

Last year the floods cost Government 64 lakhs in remission and suspension. Had there been no Permanent Settlement, Government would certainly have had to pay very much more, not only last year, but in previous years also. It might be true that more money would be available were there no Permanent Settlement, but that would be taking a narrow view of finance, because the Permanent Settlement has spread prosperity to the middle classes and Government sources of revenue, other than land revenue, have been greatly increased. As

regards the figures for the area under cultivation given in answer to question 6, he explained that Colebrooke included Bihar, Orissa and Chota Nagpur in Bengal, and the figures are not for Bengal alone. It might be true that in Western Bengal some irrigation tanks have fallen into disuse. He said that it would be a fallacy to calculate the assets of Bengal proper at the time of the Permanent Settlement by taking the present revenue of 2·15 crores and adding 10 per cent. for collection charges. Famine wiped out half of the population and reduced one-third of the country to jungle. The East India Company settled the revenue at 2·76 crores without considering the zamindar's assets. Whether the zamindars had a margin of profit at that time is not certain. He agreed that the assets for Bengal proper might have been about 2 crores at the time of the Permanent Settlement. The increase to 12 crores is mainly due to the extension of cultivation. It has however to be remembered that the Commission's figure of 12 crores representing the present raiyati rental includes khas mahal and temporarily settled areas.

With reference to the quotation from Lord Cornwallis' Minute in answer to question 46, the Khan Bahadur said that by the use of the word "only", the intention was that enhancement of rent could only be made on account of cultivation of more valuable crops. Mr. Sen replied that Lord Cornwallis' opinion was never embodied in the law. Shore and other authorities gave different opinions. He maintained that the Permanent Settlement Regulations must be the final authority. The Khan Bahadur then quoted from the despatch of the Court of Directors, dated the 19th September 1792, to indicate the intention to give the same certainty to the raiyats' rent as to the revenue of the zamindars. Mr. Sen replied that what the Court of Directors might have intended was not included in the Regulations issued at the time of the Permanent Settlement. Presumably the draughtsmen were capable of expressing the Court of Directors' decision.

As regards the effects of subinfeudation on agriculture, he said that if the margin of profit of the zamindars is distributed among the tenureholders, the raiyats are not thereby affected. It is not true that when tenureholders come in, they immediately attempt to enhance rents: otherwise it is most unlikely that the average rent could have remained at Rs. 3 an acre for so long. He agreed that rents of raiyats under landlords and tenureholders may differ, and that the profits of tenureholders may be smaller than those of landlords, but this does not mean that no tenureholders are in a position to help their tenants. Nor can it be inferred that subinfeudation tends to make the landlords more "indolent". It would not be correct to say that Government does not help agriculture because of its limited revenue. There must first be an agricultural policy. It is true that more money might be

necessary but if there is the will on Government's part, they could raise money. Even so, it is essential first to lay down a sound agricultural policy. If it is said by anyone that 80 per cent. of the assets goes to the landlords, the conclusion would be that he does not understand the Permanent Settlement. It is not correct that the Permanent Settlement has resulted in investment on land at the expense of industry. It is no retrograde step to invest in land and the circumstances of Bengal are such that it should remain primarily agricultural. He did not believe that Bengal can be industrialised. If the raiyats have a lower purchasing power, industries cannot thrive. Landlords have undoubtedly helped to finance agriculture: in fact during the first part of the 19th century, landlords were the only agency. It was in the latter part of that century that the mahajans appeared, and in the 20th century Government began to consider the question. Even if the mahajans charged exorbitant interest, they have done something to provide rural credit and to save the tenants in times of need. He could not say what sums have been lent by landlords to tenants in more recent years.

The Khan Bahadur queried the correctness of the figures in answer to question 11 and Mr. Sen explained his position.

The failure of the Patta Regulations was due to the raiyats, who were unwilling to execute agreements with their landlords. Tenancy legislation was enacted in 1859 not to introduce anything novel in the system of land tenure but because judicial decisions had made it necessary to codify the existing system. There were no other reasons for legislation at that time. Before the Act of 1885, the Pabna riots had taken place but the despatches prior to 1885 show that the primary reason for legislation was to provide for the realisation of rent.—Then the Rent Law Commission added other recommendations. It is not correct that legislation was necessary because relations between landlords and tenants were not cordial.

As regards the present price of zamindaries he said that the position at present is abnormal and is no guide to the value of zamindari properties. Tenancy legislation has reduced the value and has made the occupancy rights even more valuable. He regarded as a serious statement by a Member of the Commission the suggestion that compensation should be calculated on the basis of the assets received at the time of the Permanent Settlement. The judicial decisions of many years regarding enhancement of rents cannot be set aside. It cannot be said that Rs. 3 an acre is a heavy rent even for an uneconomic holding. If that is the case, what is the position of under-raiyats who are paying twice as much? If landlords are accused of neglecting the raiyats, *a fortiori*, the raiyats have actually plundered their under-raiyats. Tenancy legislation has made holdings uneconomic and it is

now too late to come and complain about the rent. The Taxation Enquiry Committee said that the tax on agricultural holdings should be one-fourth of the income. This would be more than Rs. 3 per acre. It is true that if a tenant has 10 acres, he can easily pay one-fourth of his income. Mr. P. N. Singh Roy added that even if a holding is uneconomic not only would he say it is difficult for the tenant to pay, but he would go further and say he should pay no rent because he would get into debt. This was the conclusion of the Taxation Enquiry Committee.

Mr. Sen explained that, as regards the reply to question 23, Mr. S. C. Mitter's view is that when a share of the crop is converted into fixed money-rent, the State ceases to be a partner and the raiyat obtains a proprietary right. Khan Bahadur M. Hossain quoted from Justice S. C. Mitter's Law Lecture to indicate that the cultivators had proprietary rights and that the East India Company set aside the Muhammadan theory that revenue, and not the land, belongs to the sovereign. Mr. Sen replied that Akbar's settlement was for 10 years and was fixed on the basis of the productivity of the land. It was optional to pay rent in cash, or one-third to one-fourth of the crop, i.e., the quantum of produce was fixed but not the rate of rent. As regards the status of the raiyats, by proprietary right is meant the right to cultivate. Even Mr. Justice S. C. Mitter holds that he forfeits the right if he does not cultivate. In his opinion however there were higher authorities than Mr. Justice S. C. Mitter, such as Phillips. He did not advocate the restriction of occupancy rights to "tillers of the soil" but would confine it to agriculturists in the wider sense of the word. He did not agree that the Permanent Settlement was concerned with non-agricultural tenants. He said that paragraph 8, Article 7, of Regulation I of 1793 refers to "all classes" of people, but the wording later on also refers to agriculturists, viz., talukdars, raiyats and other cultivators of the soil. The word "raiyat" was not synonymous with non-agricultural "tenant" at the Permanent Settlement. The income from non-agricultural lands is governed by the Transfer of Property Act and is assessed to income-tax. Had non-agricultural lands been included in the Permanent Settlement Regulations, they could not have been subjected to payment of income-tax. Pargana rates were altered before the Permanent Settlement and were always variable. They were not revised by any survey after the Permanent Settlement.

Mr. P. N. Singh Roy said that occupancy rights should not be given to bargadars. They are not on the same level as the old raiyats who paid a share of the crop. The raiyat is a tenant whereas a bargadar is a labourer who gets remuneration for his labour. He pointed out that all bargadars do not supply seed, cattle and plough. Those

who do so get a greater share of the produce as their remuneration than the ordinary bargadars. He would not be in favour of giving occupancy rights to bargadars who provide the seed, cattle and plough. The grant of occupancy right is not contingent on the supply of agricultural implements. Mr. Singh Roy compared the case of a mason who constructs or repairs his house. He brings his own instruments with him and the householder does not supply them. In the same way, a person employing a cartman does not supply him with cart and bullocks. For the supply of implements or the cart and bullocks the mason or the cartman gets the remuneration for his labour only. It may be true that the bargadar loses his share of the crop if there is a failure of crop, but so does the landlord, and so does the ordinary labourer.

In reply to Khan Bahadur A. Momin, Mr. Sen said that, as regards the answer to question 24, the existence of village communities and of headmen indicates that the State dealt with the headmen and not with individual raiyats. The headmen might be called officials but not in the sense in which the word is used to-day. When the State began to deal with the headmen it virtually ceased to consider the individual raiyats. It is not possible to say exactly when landlordism arose in Bengal, but authorities show that by Akbar's time the zamindars were numerous, powerful and had acquired hereditary rights. The Permanent Settlement merely confirmed them as proprietors of the soil.

He agreed that shortly before the Dewani zamindars had to supply rations to troops and had to carry out police duties and to perform judicial functions. They were therefore something more than simply proprietors. But it would not be correct to say that their functions were those of Government officials: they received no remuneration for such functions.

In reply to Dr. R. K. Mukerji, the Raja Bahadur of Nashipur said that after they were relieved of their police functions the landlords' police lands were resumed by the State and they had to pay extra revenue. The landlords also used to receive fines in their judicial capacity.

Continuing to Khan Bahadur A. Momin, Mr. Sen said that Murshed Kuli Khan tried for three years to remove the landlords and to collect revenue direct but he failed. When the landlords were dispossessed they were given malikana, which is an indication of their proprietary rights.

He did not agree that the restrictions in the Patta Regulations limited the proprietary rights of zamindars. Section 52 of Regulation VIII of 1793 lays down that subject to the restrictions regarding

mokararidars and khudkasht raiyats the zamindars could let the remainder of their lands as they liked. He agreed that there is no such thing as the absolute proprietorship of land. Landlords certainly do not exercise more power nowadays than at the Permanent Settlement.

As regards the supply of capital for improvement of their estates, Mr. Sen stated that there are many factors in production of which labour is only one: there is the land, the capital supplied, the risks and the employment of labour. The landlords provided all of these except the labour. At the time of the Permanent Settlement the country was in a chaotic condition. The landlords had to induce tenants to settle at lower rates of rent and sometimes rent-free for several years. It is certainly the landlords' enterprise which extended cultivation and was responsible for building embankments and excavating tanks. The tenants were poor and had no capital to invest. It is true that the landlords may have had a small margin of profit but when the tenants had no capital he asked where the money could have come from. He undertook later to give instances of landlords who have extended cultivation by the supply of capital.

He did not agree that if the increase due to the fall in the value of money is applicable to raiyats' rents it should also apply to the zamindars' revenue. The quantum of revenue payable by the zamindars was fixed at the Permanent Settlement and for years afterwards they got practically no profit.

He mentioned that the Permanent Settlement has been of benefit to the raiyats not only because it brought peace and security to the province but for the other reasons mentioned in the reply to question 10.

He said that during the last 50 years relations between the landlords and tenants have been on the whole cordial as will be clear from Settlement Reports. The idea that tenants are oppressed by landlords has arisen only in the 20th century. At the present time the causes of unhappy relations between the landlords and tenants are both political and economic. So long as the present agitation and Tenancy legislation on the present lines continue, it is likely that strained feelings will remain. He agreed that the Praja Party may acquire more power than it has at present and make the landlords' position even more difficult.

He did not agree that the landlords have outgrown their usefulness, and referred to the suggestions in the reply to question 25. The present system is capable of serving the country in a better way than the provisions of Tenancy legislation, but the difficulty is that the

landlords' utility has been restricted by legislation. Landlords in the past have tried to effect improvements for the benefit of their tenants but they are handicapped now by Tenancy legislation. As more recent examples of estates which have tried to effect agricultural improvements Mr. Singh Roy mentioned the Makalpur estate in Hooghly, the Gouripore estate in Mymensingh, Kumar Sarat Kumar Roy's estate in Rajshahi, and the Mallik family of Ranaghat who are tenure-holders: the Mymensingh and Nashipur estates have made similar attempts. He could not give the percentage of such estates but said that those who can help their tenants in this way have done so.

Mr. Sen said that the landlords' margin of profit nowadays is only on paper, and realisation of rents through the Civil Courts is very slow and harassing. Tenureholders find it difficult to pay the rent to their superior landlords and he agreed that their difficulties are likely to continue. It is only right that Government should give landlords better facilities to realise their rents.

He thought that most landlords would be glad to part with their zamindaries if they are given proper compensation. This should be paid on the basic principles of the Land Acquisition Act. If the removal of the landlords is compulsory, an additional 15 per cent. should be paid above 20 times the net profits. He did not agree that the relief resulting to zamindars by taking over of their estates could be considered a reason for withholding the additional 15 per cent. If Government takes over all zamindaries now they should follow the principles of the Land Acquisition Act and should not take a purchasing price prevailing in abnormal times. At the present time 15 times the net profit would be the purchase price.

If an agricultural income-tax is levied, the position of the landlords would be worse and the value of their property might decrease. In each case the size of the estate, the margin of profit and similar considerations would have to be examined. In reply to the Maharajadhiraja Bahadur of Burdwan, Mr. Singh Roy explained that 15 times the net profit is the minimum which should be paid and it might be more in other cases. There are landlords who even to-day would not part with their estates if they were given 15 times the net profit.

As regards the effect of State purchase on the social structure of the province, Mr. Sen referred to the reply to question 16. Most of the middle classes are tenureholders and jotedars. Their property as well as the property of the landlords would be taken away by State purchase. The result would be that the present social bonds between the different classes of society would be destroyed and the cultivating class would find itself under a different system with a different ideology. He did not agree that if tenureholders were allowed to retain their

homes and khas lands there would be no practical change in their condition. They would lose all interest in the land and the connection with their tenants would be severed.

As regards fragmentation of holdings, Mr. Sen said that consolidation is desirable but it would be difficult to make it effective if an attempt is made to carry it out on a voluntary basis. He agreed that it would be easier to carry it out if there was one landlord. Subdivision cannot be stopped without interfering with the laws of inheritance. The zamindars might agree to this change but he thought that the tenants would not. He referred to his suggestion that subdivision should not be allowed below the size of an economic holding even though the shares are subdivided. He believed that the system of a preferred share would be possible but difficult. He was not in favour of allowing lands to accumulate in one hand except in cases where tenants want to farm lands on a large scale.

Explaining the last sentence of the reply to question 57 he said that when the proposed revision of rent is made, the rent might either be enhanced or decreased. As regards the reply to question 73 Mr. P. N. Singh Roy said that it is not possible for individuals to restore the fertility of the soil. A long programme of irrigation improvements is essential. Government has not done enough in the past. If Government gets back only the cost of carrying out irrigation works he thought that the people would be ready to pay for such a programme. Government has shown a commercial spirit:—for example, under the Development Act Government demands half of the estimated increase in yield resulting from irrigation improvements. He did not agree that the Permanent Settlement could be blamed because Government has to find additional revenue for such improvements. The land has to pay for them and even the landlords would have to pay if their khas lands are improved. He did not agree that the khas mahals have done much to improve irrigation. As regards the reply to question 83 he had not recommended the development of industries because in Bengal people are not as a rule willing to leave their homes. The development of cottage industries would be helpful, and the surplus population should be diverted to home industries.

The co-operative system has failed to liquidate debts and the present volume of debt is too great for the department to tackle. Some improvement might however be possible by reorganizing the department's methods. Debt Settlement Boards have removed agricultural credit. He thought they could only function if Government could find the money to meet the credit needs. They should be abolished and a moratorium should be declared.

In reply to Dr. R. K. Mukerji, Mr. Sen said that the State should be for the greatest good of all citizens. The "greatest good of the

largest number" rather implies that minorities will not be considered. He agreed that the Paramount Power could remove the Permanent Settlement if it considers it in the interest of the country, subject to the payment of compensation.

Mr. Singh Roy said that the area of the average holding is uneconomic. The value of the gross produce per acre would average about Rs. 45. Taking the figure as Rs. 40 for the sake of argument, the raiyat has to pay as rent 1/13th of the produce. The cost of cultivation might be 1/3rd of the produce. The average number of persons per family is 5 according to the Provincial Banking Enquiry Committee's Report. If each member of a family were allowed one anna per day for subsistence the necessary income would be Rs. 10 per month. The area of an economic holding should be 5 acres: this is a minimum area. The reasons for the growth of uneconomic holdings are the laws of inheritance and Tenancy legislation.

Cultivators remain idle for about 6 months in the year. Some of the old handicrafts such as the production of muslin in Dacca have disappeared. The landlords had nothing to do with this. The reason has been the development of trade from the days of the East India Company onwards. Rice husking has been introduced into some villages successfully. The silk industry exists in Murshidabad, and the bell-metal industry is capable of development. He agreed that the State should finance the programme of industrial development. It is not primarily the duty of the landlords to do so. The Department of Industries has produced practically no results.

As regards reduction of rent on account of fall in prices, Mr. P. N. Singh Roy said that this is provided for by the Tenancy Act. During the boom period some resettlements of holdings may have been made at higher rents but there was no general assessment of rents in permanently settled estates: the existing rents which were fixed long before it at customary rates merely continued. Dr. Mukherji suggested that tenants might be given the option of paying the rent in cash, or kind as bargadars now do. Mr. Singh Roy replied that the two cases are not the same, because bargadars can be evicted at will and are not tenants. He thought that commutation of the produce in accordance with the value of money would be very difficult, and that it would also be difficult for the landlords to collect rent in kind on a large scale. He agreed however that in theory the proposal might be considered provided there are adequate safeguards. Mr. Sen said that the decreasing fertility of the soil is not the responsibility of the landlords. The decreased yield of produce is due primarily to the poor health of the cultivators owing to the increase of Malaria, and to the lack of scientific agriculture, Mr. Singh Roy added that it is the

business of Government to supply improved seeds through the Agricultural Department but even after the floods last year the department supplied no seeds. The landlords would be prepared to help their tenants with small irrigation schemes, but nowadays their incentive has been removed. Enhancement for such improvements cannot be made during the next 10 years and it is unlikely that the former law will ever be restored.

Mr. Singh Roy gave as an analogy the case of house property in Calcutta, the tenant of which asks to have electric light installed. If this were done the landlord would naturally expect an enhancement of rent to cover the cost of the improvement; and if he could not get an enhancement he would not carry out the improvement.

As regards the increase in raiyati assets through the extension of cultivation, Mr. Sen said that about the time of the Permanent Settlement, Grant estimated that 18,000 square miles out of a total of 90,000 square miles was under cultivation. In Bengal as it is to-day, the cultivated area is 29 million acres according to the Commission's figures, i.e., over 45,000 square miles. The increase is therefore mainly due to the extension of cultivation. At the time of the Permanent Settlement, rents in Burdwan were as much as Rs. 5 or 6 per acre whereas in other parts of the province they were lower. According to Grant the average rent per acre was Rs. 2, but other authorities have different views. Generally speaking however, there has been little enhancement in permanently settled estates since the Permanent Settlement: the rent has continued much the same for 150 years.

Mr. Singh Roy explained the Association's calculation in answer to question 11. The Association assumes that the raiyati assets in the permanently settled area amount to about 11 crores; land revenue 2·35 crores; cost of collection 15 per cent.; cost of litigation 15 per cent., of which about 10 per cent. is recovered through Courts; and unrealisable arrears amount to 15 per cent. The landlords' share of the cess is 48 lakhs. The total of the landlords' outgoings is thus about 4 crores. It follows that 7 crores are intercepted by landlords and tenureholders. The number of revenue-paying estates is 1 lakh and the number of tenures 27 lakhs. Taking 5 as the number of persons in each family of all rent receivers, there will be 14 lakhs of rent receivers in Bengal, amongst whom the profit of 7 crores is distributed. The average income is thus Rs. 5 per head.

In reply to Sir F. A. Sachse, Mr. Singh Roy agreed that some tenureholders may have more than one tenure, or a share in estates. If a reduction of 15 per cent. is made on this account, the number of rent receivers would be 11·9 lakhs and the income Rs. 7 a head.

Continuing to Dr. Mukherji, he said that landlords' realisation of rent amounted in some years to 100 per cent. in some districts but this was the result of both the current and arrear demands. Landlords have to give remissions of rent to their tenants, and if the State purchased the interests of the landlords it would also be compelled to give remissions. To give a rough idea of the amount, Mr. Singh Roy said that in the total khas mahal area of 5,710 square miles Government had to grant remission of Rs. 63,04,206 in 34 years (1904-1937). Remission in the same proportion for the rest of Bengal having a total area of 66,671 square miles calculated for 146 years (1793-1939) would be about Rs. 32,48,52,000. In recent years, the political situation has changed and Government nowadays is subjected to much greater political pressure. Last year the amount spent for loans, gratuitous relief, relief work and remissions amounted to not less than 64 lakhs, compared with very small amounts which the previous Government used to spend. He was quite definite that in future political pressure will be so great that remissions will be very much higher than that figure. In the permanently settled area, remissions are borne by the landlords. Reduction is often given by them when land deteriorates.

Mr. Sen said that the revenue from stamps, court-fees and customs duty in Bengal is due to the greater purchasing power of the people and this has resulted from the Permanent Settlement. Under State management, the income from these sources would undoubtedly decline. Bengal pays a large share of the Central revenues from customs duty and income-tax because of the higher purchasing power of the people. It is because of this purchasing power that the imports into Bengal are greater than any other provinces and consequently the customs duty is higher. The reason why land revenue is higher in Madras is that the area of Madras is double that of Bengal. The incidence of revenue in Madras according to the Commission's figure is 14 annas whereas in Bengal it is 15 annas; but in Madras the Government rate of rent is much higher than in Bengal. The greater area and the higher rate of rent together result in a higher revenue.

Under-raiyats were not in existence at the time of the Permanent Settlement. The zamindars cannot be held responsible if the raiyats rack-rent their under-raiyats. This can only be stopped by legislation.

In reply to the Maharajadhiraja Bahadur of Burdwan, Mr. P. N. Singh Roy said that if the State purchases the interests of zamindars, compensation must include arrears of rent which are undoubtedly assets. He would not claim compensation for arrears which are time-barred, but it would be equitable to include all recoverable arrears less 10 or 15 per cent. on account of bad debts. He agreed that the mineral rights would also have to be acquired by the State and the underground rights should be separately assessed.

In reply to the Chairman he said that if oil was discovered in Bengal, compensation would also have to be paid on that account. The whole question of underground rights has been tested in the Courts and the decision was that the zamindars possess these rights. The Chairman mentioned that in England, legislation had been passed which secured to the State the oil rights without payment of compensation.

Continuing to Maharajadhiraja Bahadur of Burdwan, Mr. Singh Roy said he had not considered the possibility of Government taking a lease of permanently settled estates. He thought that zamindars would be willing to give their estates in Ijara to Government.

He regarded land revenue as a tax and said that if equality in taxation is taken into consideration, the imposition of an agricultural income-tax would not be justified. The revenue and cess now payable by landlords is already more than income-tax would be. If agricultural income-tax is levied, there must certainly be a limit. He suggested that such a tax should only be levied in estates where the net profit is more than 50 per cent., i.e., where land revenue plus cesses and collection costs are less than 50 per cent. He agreed that if the State purchases all zamindaries and tenures, there would be a loss in revenue from court-fees and stamps. Mr. Sen estimated this at about 2 crores.

The free right of transfer has not benefited landlords or tenants. Ilbert, who was a great critic of the landlords, observed that "a landlord is concerned to see that no undesirable tenant is forced on him and this should be prevented by giving the landlord the right of pre-emption." Mr. Singh Roy suggested legislation by which a landlord would receive a notice of sale giving the name of the intending purchaser and the price offered and if he (the landlord) considered him undesirable, he might have the first right to purchase the holding by paying the price offered by the intending purchaser within a statutory period to be fixed.

In reply to Khan Bahadur M. Hossain, he agreed that legislation might also restrict the subsequent settlement of the holding to agriculturists.

Continuing to the Maharajadhiraja Bahadur of Burdwan, he said that the figures for collection of rent in khas mahal show first the percentage of collection on both current and arrear rent. The Hon'ble Minister, Revenue Department, had recently said that Government realises 52 per cent. of the current demand. Mr. Singh Roy said it would be difficult to give figures showing the percentage of charities given by landlords for the benefit of their estates as distinguished from

outside charities. He undertook however to try and collect such figures.

Mr. Sen said that if the landlords had been in control over water channels, it is possible that the position as regards irrigation might be better than it is to-day; but the Irrigation Act stands in the way.

In reply to Mr. B. K. Roy Chowdhury, Mr. Sen said that in considering subinfeudation below the zamindars it was not a question of the landlords' incapacity to provide capital for the whole of their estates. Up to the first quarter of the 19th century, their margin of profit was so small that historically speaking, it was a necessity to introduce tenureholders. The Permanent Settlement did not take away any rights from the tenants. Looking at the Permanent Settlement Regulations as a whole, it is clear that the raiyats were given security against eviction and arbitrary enhancement. Occupancy raiyats to-day have acquired full proprietary rights as a result of tenancy legislation, culminating in the Act of 1938. Practically speaking, rent-free raiyats are no better off than rent-paying raiyats because rent is such a small portion of the tenant's budget. He agreed that agricultural improvement by themselves will not solve the economic problem, which has arisen through the pressure on the land. The increase in population will have to be checked. If the Permanent Settlement is abolished, 14 million rent receivers will be deprived of their livelihood and the existing social system will be dislocated. He did not regard it as correct to say that the Permanent Settlement has resulted in investment in land at the expense of industry.. The cost of management is 15 per cent. for collection and nowadays the cost of litigation has increased to the same figure. Zamindari management is more expensive than khas mahal management because the zamindars have not the same power behind them as Government has. The increased cost of collection nowadays is due to abnormal condition.

Landlords who have property in several districts cannot be called absentees because it is impossible for them to be in all the districts at the same time. Absenteeism is a misnomer and a phrase used by political agitators. Property in Bengal is detached and scattered and not compact as in England. If the Permanent Settlement were abolished, Mr. Singh Roy said that his Association would be prepared to accept temporary settlements, but not on the system which now exists in Bengal. The landlords would prefer the United Provinces system and compensation would also have to be paid for the loss of their rights. Temporary settlement would not however improve the condition of the agriculturists. Rights in agricultural property must be treated on the same footing as rights in other private property. If the Permanent Settlement is abolished, the landlords would undoubtedly demand compensation in cash. As regards payment of rent

by money orders Mr. Singh Roy said that it is provided for by the Act of 1928. If punctual payment by this system is made, the number of tahsildars might be reduced and the landlords might even be prepared to pay the money order fees. He agreed that the collection of cess should be transferred to Union Boards. Landlords often cannot realise cesses and have to pay from their own pockets. They cannot go to the Civil Courts for sums amounting to a few annas.

In reply to Khan Bahadur Hashem Ali, Mr. Singh Roy said that the membership of the British Indian Association is about 200 from all districts of Bengal and from Bihar. It is true that some estates are encumbered but he did not agree that the majority are. Asked whether purchases of zamindari property have been made after 1930, he mentioned that he himself purchased a property in Burdwan about six years ago. The price paid was 19 times the net profit. This estate was not contiguous to any other property owned by him: it was an investment. He could not say what is the percentage of profit remaining to individual estates after paying revenue and all costs of management. He declined to answer questions of a personal nature and said that the representatives of the Associations were there to give the views of all landlords. He repeated the figures which he had given to Dr. Mukherji to show the revenue paid, costs of collection, etc. He could not however give any definite percentage to show the amount paid in charities. Percentages, he said, are apt to be misleading. If one goes by the law of averages, the conclusion might be that the landlords and tenureholders should pay nothing at all on their average income *per capita*. Mr. Sen pointed out that in the matter of taxation it was not the average income but the dispersion of income which was the factor to be reckoned with. The number of big landlords is small. The criterion for votes in the landlords' constituency is the payment of Rs. 2,000 as revenue in Eastern Bengal and Rs. 3,000 in Western Bengal, yet in the whole province less than 1,000 landlords have votes. Mr. Sen said that under the Regulations, waste lands were to be settled at pargana rates. Rates above that would be illegal but the pargana rate was a variable rate fixed in accordance with the capability of the land.

As regards reduction of rent, Mr. Singh Roy said that he himself had given reduction on account of deterioration in fertility in some of his properties in the Trans-Damodar area and in the Arambagh subdivision. He did not agree that there has been any deterioration in Mymensingh. It is open to the tenants to go to the Courts for reduction of rent on account of fall in prices and it is not true to say that they have not done so because of fear of oppression. Landlords did formerly exercise the right of pre-emption. The number of cases was given by the Revenue Member, Sir B. L. Mitter, as 1,300 a few years

ago. Pre-emption is in the interest of tenants, and landlords have exercised the power at the request of co-sharer tenants. He mentioned the case of a benami purchase by one co-sharer, in which the other co-sharers asked for pre-emption. Landlords and tenants have been equally affected by the economic depression. It may be true that tenants have sold some of their lands to mahajans since the depression—it is equally true that the number of revenue sales has increased though the number of private sales has not increased. It would not be true to say that landlords generally do not visit their estates. Mr. Singh Roy mentioned that the Maharajadhiraja Bahadur of Burdwan had recently been to Arambagh subdivision—an area which is not even visited once a year by the Collector, and had also visited his estates in Orissa. If the State purchases the rights of zamindars, they are entitled to get back the capital which they have invested and not simply the margin of profit after deducting all their outgoings. There are other considerations which are worth more than mere cash compensation. The landlords accepted a Permanent Settlement that was thrust upon them. He agreed that the future of the zamindars will be uncertain if the present agitation and the Krishak Party movement are allowed to continue. The present Government has done nothing to stop this agitation: it seems to be encouraging it. There is no doubt that trade, commerce and revenue from customs and stamps will decline if the Permanent Settlement is abolished. It would be impossible for industry to absorb all the landlords and tenureholders who would lose their property. Landlords would never agree to additional taxes for the development of industry. Such taxation would merely be another evasion of the Permanent Settlement Regulations. But if the landlords could realise their rents punctually, he had no doubt that they would agree to contribute towards ameliorative measures.

In reply to the Secretary, Mr. Singh Roy explained that his proposal to limit an agricultural income-tax to estates whose revenue, cess and cost of collection is less than 50 per cent. would not be applicable in the case of small zamindars and tenureholders whose income is less than a certain amount. There should also be a monetary limit to such a tax.

In reply to Sir F. A. Sachse, Mr. Sen explained in connection with the reply to question 80 that co-operative system of agriculture cannot function if the members have different rights. Rights of members must be equal. He agreed that it would be easier to introduce such a system if there were one landlord, one grade of raiyat and one rate of rent. He agreed that tenancy legislation has recognised existing facts, e.g., it was a fact that the law limiting under-raiyati leases to 9 years was never observed in practice, but he maintained that had tenancy legislation not recognised subinfeudation

it could not have extended as it has done. In Europe there is no subinfeudation because legislation has discouraged it. Sir F. A. Sachse enquired whether it is practically possible to stop subinfeudation when a margin of profit exists. Mr. Sen replied that even so, legislation should endeavour to stop subinfeudation: otherwise agriculture will be ruined. He agreed however that a judge or a lawyer who has lands should be allowed to cultivate through labourers who should be paid daily or monthly wages or by a share of the crop. Subinfeudation of holdings below the economic level should not be allowed. Whether this is provided by legislation or whether the system of preferred heir is adopted, is a matter of expediency. Mr. Singh Roy thought it possible that co-sharer tenants might agree to let one of the members of the family cultivate and be responsible for maintaining the others. This system will certainly be possible in a family where the brothers are engaged in different occupations but he agreed that it would be difficult to work in the case of purely agricultural families.

Sir F. A. Sachse queried the figures which were given in answer to question 81 which show that in the Burdwan Division only 60 per cent. of the land is under cultivation. Mr. Sen replied that Burdwan was originally a prosperous and thickly populated area. In the last part of the 19th century its decline began. There has been a progressive decline from 1901 to 1931, the principal reason being the deterioration of the rivers. Sir F. Sachse pointed out that the figures showing the area under cultivation in answer to question 73 are not correct. According to the Settlement Report of the Burdwan district, the cropped area is 995,000 acres. Mr. Sen replied that the figures had been taken from Professor R. K. Mukerji's book "The Changing Face of Bengal," page 90. Sir F. Sachse explained that the statistics of the Agricultural Department are based on estimates made by Collectors and suggested that it is hardly possible that when the value of land was increasing and prices were rising the cultivated areas in Burdwan and Hooghly could have decreased by 40 per cent. and 45 per cent., respectively. Mr. Sen agreed that this might be so and said that the Association would make further enquiries and forward revised figures later.

Reply by the Burdwan Landholders' Association.

Q. 1. The description given of the objects of the Permanent Settlement is only illustrative and not exhaustive. British statesmen found in the feudal society of India a valuable ally. The much criticised Permanent Settlement of 1793 was imposed on a subject people by the rulers themselves as a measure of triumphant public policy primarily in the interest of the State and only secondarily in expectation of the resultant benefits arising therefrom. It was a far-sighted policy and the great English statesmen of those days who recommended the system did not refuse to look beyond their nose and did not intend to ruin the country by despotic exactions. They took a long vision of things and realised that what was lost in land revenue would be more than compensated by the receipts under other sources of direct or indirect taxation due to the all round prosperity of the province and the reclamation of the waste lands.

The primary object of Regulation I of 1793 was to stabilise the revenue system of the province and to ensure punctual payment. It was a device to exact the maximum possible revenue out of the available assets at that time. It was decided upon after 25 years of occupation and after long deliberations when all other experiments by the revenue experts of those days for raising a steady and unfailing revenue had ended in disaster. In the words of Sir John Anderson, "the Settlement (of 1793) was not the outcome of the grasping and short-sighted policy of a parochially-minded provincial Government, but was deliberately imposed by the highest authority in India. Incidentally, it was the same authority who announced that it was *'fixed for ever'*."

The great English statesmen who composed the Board of Directors of the East India Company of those days appreciated that the country wanted rest from constant change. The establishment of the principles of the Permanent Settlement was considered to be the great remedy for the evil consequences of constant fluctuation. At that time 1/3rd of the cultivable area in Bengal, and according to some historians half of the cultivable area lay waste and infested by wild beasts. They could not reclaim the lands themselves. They did not believe that any inducement short of a permanent tenure and fixed assessment would induce private individuals to reclaim the waste areas. They decided that it was a good policy to surrender their claim *for ever* to any future increase of revenue whether from such reclamation or *from other sources* connected with the land in order to encourage the great work of extending and improving the cultivated area of Bengal. They were convinced that the magic touch of property would set a certain

"productive principle" in operation which would abundantly recompense them in future for the supposed sacrifices then made. These expectations have not been belied but have been amply fulfilled as I shall show later on.

If ever there was a great question of administration decided upon what seemed, at the time, to be sound economic principles, it was the Permanent Settlement. In the words of Lord Hastings "never was there any measure conceived in a purer spirit of generous humanity and disinterested justice, than the plan for the Permanent Settlement in the lower Provinces. It was worthy of the soul of a Cornwallis."

The Permanent Settlement was not a hasty measure at all, but was the thoughtful outcome of intelligent brains and was fashioned with great care, after very long deliberations. It must be admitted that in deciding on this momentous measure the Board of Directors was guided by considerations of a higher order than ordinarily enter into business routine. The Board of Directors gave utterance to an eternal truth when they remarked "No conviction is stronger in our minds than that of all the generated evil of the unsettled principles of administration, none has been more baneful than the frequent variations in assessment. Impolitic as such a principle must be, at all times, it is particularly so with respect to a dependent country, paying a large annual tribute and deprived of many of its ancient supports."

It was pertinently pointed out to the Hon'ble Board of Directors by Mr. John Shore in his Minute, dated the 18th of June 1789, that "if the Government be not secured with respect to its revenues, it must stand to all losses and accidents of the seasons; where the raiyats fail or are unable to pay there is no remedy and the annual amount of the revenue must be subject to considerable variations." It was realised by the framers of the Permanent Settlement that in a country subject to periodic devastations of nature, due to uncertainty and unequal distribution of rainfall and the silting up of the river beds, floods and famines were a very common occurrence and that the Permanent Settlement would be an insurance against such natural calamities. There can be no gainsaying the fact that, in times of famine or distress, the falling off of revenues in the permanently settled areas is much less than that in the raiyatwari or khas mahal areas.

The terrific experiences of the devastating famine of 1770, recorded by Mr. John Shore in verses and quoted by Mr. Hunter in his "Annals of Rural Bengal" shock humanity even to this day. Writing in 1772, Mr. Warren Hastings sets down the loss of population at "at least 1/3rd of the inhabitants of the province."

Mr. Pattle, sometimes a member of the Board of Revenue, thus comments on the Permanent Settlement "the country brought under

the Decennial Settlement was for the most part wholly uncultivated. Indeed, such was the state of the country from the prevalence of jungle infested by wild beasts that to go, with any tolerable degree of safety, from Calcutta to any of the adjacent districts, a traveller was obliged to have at each stage four drums and as many torches; besides, at this conjuncture public credit was, at its lowest ebb, and the Government was threatend with hostilities from various powerful Native States. Lord Cornwallis's great and comprehensive mind saw that the only resource within his reach, in this critical emergency was to establish public credit and to redeem the extensive jungles of the country. These important objects, he perceived, could only be effected by giving to the country a perpetual land assessment made on the gross rental with reference to existing productiveness and therefore promising to all those who would engage, the encouragement of an immense profit from extending cultivation. Admitting that the sacrifice was very great, I think it cannot be regretted when it is considered what difficulties it conquered, and what prosperity it has introduced and achieved. For my part, I am convinced that our continuance in the country depends on the adoption of that measure and that our stability could not otherwise have been maintained unaltered."

It will be seen from the above accounts that the Permanent Settlement of 1793 was a political necessity and an economic gain. It was hailed as a godsend, when the Government was at its wit's end to balance the budget. This steady and unvarying income from the soil enabled the British nation to build up their Indian Empire. Bengal paid the expenses of the ambitious wars and annexation in Northern and Southern India. Madras and Bombay never paid the total cost of their own administration during those years.

This guaranteed income from land revenue cannot be produced by magic. As the Government does not stand to lose in years of distress and famine, the zamindars must of necessity be allowed a decent margin of profit in years of prosperity, in order to make good their losses, in lean years. The zamindars' liability remains constant in theory, but ever-increasing in practice. Road and public works cesses, and education cess, in many cases, have been added to their liability of land revenue. It matters not whether they can realise any rent whatsoever from the actual tillers of the soil, they must either fulfil their engagements of 1793 punctually or be wiped out of existence. Neither flood nor famine, nor earthquake can be pleaded to delay the payment of revenue beyond the fixed date, in the permanently settled areas.

It was no doubt expected that the zamindars would extend to their subordinate tenants the same generous treatment which they were to receive from Government. It is common sense that when there was plenty of unoccupied and uncultivated land in Bengal and population

was sparse, the competition was not among the tenants for land, but amongst the zamindars for raiyats. It was to the interest of the zamindars to treat their tenants with moderation. Tenants once induced to settle in the village were fostered. In a state of society in which rents were regulated by custom and not by competition, new tenants did not often present themselves. If the zamindars were oppressive, the tenants would have left their estates and repaired to other territories, when the village communities were still in a nomadic state. Generous treatment and moderation were necessary to induce the nomads to settle in particular villages.

It is a fallacy to suppose that the tenants in the pre-British period, i.e., immediately before 1793 had any clear cut or well defined rights. Under the despotic local administration that prevailed during the disruption and decay of the Great Moghul Empire, the only limit to exactions was the tenants' ability to pay. The tenants' rights were very much vague and undefined. Custom was the sole legislative power. The Permanent Settlement rather secured the prescriptive rights of the khudkhast raiyats who had cultivated lands for a continuous period of 12 years previous to 1793. The Permanent Settlement recognised certain rights of the raiyats, as there were, but did not take away any existing rights of the tenants.

Q. 2. The Permanent Settlement of 1793 was concluded with "the zamindars, independent taluqdars and other proprietors of land", limiting the public demand *for ever* and "leaving the zamindar to appropriate to his own use, the difference between the value of the proportion of the annual produce of every bigha of land which formed the unalterable dues of the Government according to the ancient and established usage of the country and the sum payable to the public."

In the preamble to the Regulation XLIV of 1793, we find the following passage:—

"It is essential.....that the proprietors of land should have a discretionary power to fix the revenue payable by their dependent taluqdars and to grant leases or fix the rents of these lands for a term sufficient to induce the dependent taluqdars, under-farmers and raiyats to extend and improve the cultivation of their lands."

The zamindars no doubt had the right even before 1793 to demand higher rents from their raiyats when any higher assessment was forced on them by the ruling powers.

Colonel Munro observed in 1806, "I suppose that the zamindars of Bengal are to be at liberty to raise their rents, like landowners in other countries, for if they are restricted from raising the assessment fixed by the Government, and at the same time are liable for all losses, they have

not the free management of the estates and hardly deserve the name of owners."

The following passages occur in the Minute, dated the 3rd February 1790, of Lord Cornwallis, the then Governor-General of India:—

"Now, if Mr. Shore's calculation of the proportion which the zamindars in general receive of the produce of their lands be accurate, it is obvious that every temporary loss must fall upon Government; for so long as we profess to leave the zamindars no more than that proportion, and claim a right to appropriate the excess to the public use, from what funds are they to make these losses good? But when the demand of Government is fixed, an opportunity is afforded to the landholder of increasing his profits, by the improvement of his lands, and we may reasonably expect that he will provide for occasional losses from the profits of favourable seasons."

"And, indeed, how could it be expected, that whilst the Government were increasing their demands upon the zamindars, that they, in their turn, would not oppress the raiyats or that a farmer whose interest extended little further than to the crops upon the ground, would not endeavour to exact, by every means in his power, as large a sum as possible over and above the amounts of his engagements with the public."

"The rents of an estate can only be raised, by inducing the raiyats to cultivate the more valuable articles of produce, and to clear the extensive tracts of waste land, which are to be found in almost every zamindari in Bengal."

* * * * * * *

"Neither is prohibiting the landholder to impose new abwabs or taxes on the land, tantamount to saying to him that he shall not raise rents of the estate."

* * * * * * *

Mr. John Herbert Harington, the celebrated author of "The Analysis of Bengal Regulations" in his book, defines zamindars as constituted by the Permanent Settlement in the following words, "A landholder possessing a zamindari estate which is heritable and transferable by sale, gift or bequest, subject under all circumstances to the public assessment fixed on it; entitled to any surplus rents and profits which may be lawfully receivable by him from the under-tenants of land in his zamindari or from the cultivation and improvement of untenanted lands, subject, nevertheless, to the rules and restrictions which may be enacted by the British Government for protecting the raiyats and under-tenants from undue exaction or oppression."

Again Mr. Harrington says at page 434 of his book (Vol. III), "I do not think the raiyats can claim any right of alienating the lands rented by them by sale or other modes of transfer, nor any right of holding them at fixed rent except the khudkhast raiyats who from prescription, have a right of possessing the lands as long as they paid regularly the rent stipulated for by them."

It must be mentioned, however, that Regulation I of 1793 and the other Regulations which followed make no exception in favour of the khudkhast raiyat and leaves the zamindars' right of eviction unrestricted. There is a provision, however, that the rents of the khudkhast raiyats shall not be raised unless the zamindar can prove that they have paid less for these lands for the last 3 years than the nirik of the pargana.

Again Mr. Harrington says in his celebrated book "on the whole .....that no perpetual right of possession, on condition of paying a fixed rent should, at present, be conferred on those raiyats who have not already a declared or prescriptive right to such."

It will be found that the 52nd section of the Regulation VIII of 1793 runs as follows—"The zamindar or other actual proprietor of land is to let the remaining lands of his estate or zamindari, in whatever manner he may think proper....."

It will be clear from the above texts that the zamindar had absolute discretion in choosing new tenants for the reclaimed waste lands, in evicting paikhast or temporary tenants and in refusing to recognise transference, and that he was directed to regulate the usage of the land to the economic interest of the province.

Q. 3. In 1793 one-third and according to some historians half of the cultivable area of Bengal lay waste and infested by wild beasts. The pioneer landlords by their industry, enterprise and business capacity converted the vast tracts of waste lands into fertile agricultural fields. The origin of most of the irrigation, and other tanks that we find scattered over the countryside today is to be traced to the industry and enterprise of the zamindars. It is a well-known fact that within 22 years of the Permanent Settlement almost half of the landed property in the province was transferred by public sale and it is difficult to produce the accurate figures of investment of money by the zamindars for improvement of waste areas, after the lapse of 146 years. I can only refer to the record of contemporary historians, in support of my proposition that the zamindars of Bengal "have been very powerful and active factors" in the improvement and economic development of the country.

I beg to append below a few extracts from the expert opinions of historians and economists which go to show the part played by landlords in the economic development of the country.

The well-known historian Mr. Marshman writes in his history of India (*vide* 1871 edition, Vol. II, p. 35), "The Permanent Settlement of Bengal was a bold, brave and wise measure and under the genial influence of this territorial charter, which for the first time established indefeasible rights and interests in the soil, the gradual improvement has become visible in the habits and comforts of the people since then."

Mr. R. C. Dutt, I.C.S., a late member of the Hon'ble Board of Revenue, Bengal, writes in his "Economic History of British India", "The Permanent Settlement is an unqualified boon to the country. Cultivation has largely extended within the last 100 years, the income from land has largely increased and the increase has remained with the people and for the good of the people."

* * * * * * *

"All through the fifteen years, from 1795 to 1810, Bengal has showed a surplus because of the certainty of land revenue. Madras and Bombay had showed deficits.

* * * * * * *

Great Britain never contributed anything towards the acquisition of India."

Mr. P. N. Roberts writes in his "History of British India," thus: "The Permanent Settlement gave popularity and stability to the British Government and has helped to make the province the wealthiest and the most flourishing in India."

Indian capital is proverbially shy. It was because of the Permanent Settlement and the security it gave to the landed community of Bengal that the Indian capital was released towards the economic development of the country.

I shall adduce the testimony of the Commissioner, Burdwan Division, who was pleased to report on the 20th October, 1883, to the following effect—"the wealth and prosperity of the country have marvellously increased, and increased beyond all precedent, under the Permanent Settlement and the zamindars have been very active and powerful factors in the development of this prosperity."

The Indian Statutory Commission in their Report Vol. I (published in May 1930, at page 340) state as follows—"Whatever may be said for the wisdom of the policy carried out by Lord Cornwallis, and however absolutely the guarantee then given to the zamindars and their

heirs must be fulfilled, the *consequence at this time of the day are remarkable.*"

I do not consider that the zamindars as a class have failed to perform the functions expected of them at the Permanent Settlement. There was a time when the zamindars were readily acknowledged as the natural leaders of the people, and they commanded the love and esteem of their raiyats for their generous treatment and the beneficial works that they had done, in the villages, to improve the lot of the poor agriculturists. All tenancy legislation since 1859 which has looked to the interest of the tenant only ignoring the rights and interests of the landlords has only tended to embitter the relations between landlords and tenants, fostered litigation and impoverished the people and landlords and tenants alike. This point was stressed by the late Sir P. C. Mitter, in his deposition before the Indian Taxation Enquiry Committee of 1924-25.

The landlords have fallen, on evil days, now, due to their inability to continue the beneficial activities of their predecessors, owing to their financial stringency brought about by a system which makes them liable to pay revenue and cesses to the Government punctually but offers no corresponding facility to them for the speedy realisation of rents from their under-tenants and cultivators. In vain have they cried for redress. The modern legislators, the representatives of the people, have not thought it fit to make any arrangements for the speedy realisation of rents, but have devised measures to delay payment and to put off the landlords' legitimate dues to an indefinite date, so that it may be impossible for him to carry on and his valuable properties may be sold at revenue sales for nothing. There is now, probably, a dearth of sympathetic British statesmen like the Collector of Burdwan who on January 9, 1794, realised the situation and reported to the President, Board of Revenue, in the following words explaining the causes of inability of the Maharaja of Burdwan to pay up the revenue demands: "He (the Maharaja of Burdwan) begs leave to submit to your consideration whether or not it can be possible for him to discharge his engagements to Government with that punctuality which the Regulations require, unless he be armed with powers as prompt to enforce payment from his renters, as Government have been pleased to authorise the use of, in regard to its claims on him, and he seems to think it must have proceeded from oversight, rather than from any just and avowed principle, that there should be established two methods of judicial process, under the same Government, the one summary and efficient for the satisfaction of its own claims; the other, tardy and uncertain in regard to the satisfaction of claims due to its subjects, more especially in a case like the present, where ability to discharge the one demand, necessarily depends on the other demand, being previously

realised." Mr. S. Davis, the Collector of Burdwan, submitted this report when there was a default of only one of the renters of the Maharaja. But even if all the renters of a zamindar default in payment, nowadays, nobody would consider it necessary to help him, in any way. The trend of modern tenancy legislation is to devise the shortest cut to the zamindars' ruin and extinction.

The zamindars of 1793 were politically and economically a necessity and they were therefore sought for in those days. They had devoted their life-long energy, anxiety, industry and savings to the conversion of the vast arid tracts of waste lands into smiling agricultural fields and therefore, they are no longer necessary elements of society. They may now be cast aside safely with ignominy and contempt, like discarded toys. The zamindars cry in wilderness now, but nobody pays any heed to their legitimate grievances.

Q. 4. It is a travesty of truth to say that the Permanent Settlement converted the status of zamindars from collectors of revenue to actual proprietors of the soil. In loyalty to truth and history which I owe, above all others, I must say that such a description of the zamindars is based on ignorance of the actual facts.

The status of a rent collector is neither hereditary nor transferable. But we find from the Minute of Sir John Shore and the record of contemporary historians that the zamindari was a permanent, heritable and transferable interest even before 1793. It was only subject to a formal confirmation of the Ruling Power. Volumes have been written on this subject and it is natural to suppose that some of the English historians misunderstood the incidence of a zamindari in the 1st half of the nineteenth century, as the indigenous system of land-tenure was foreign to their ideas. It must be admitted that ownership of land which corresponded with that aggregate of rights, the highest known to the English Law and which is termed a "fee-simple" was unknown to India.

Origin of the Bengal zamindars.

Mr. Harington thus defines or rather describes the position of a zamindar before the Permanent Settlement of 1793, in the following words:—

"The zamindar is a landholder of a peculiar description not definable by a single term in our language. He was (*a*) a receiver of the territorial revenues of the State from the raiyats and other under-tenants of land, (*b*) allowed to succeed to his zamindari by inheritance, yet in general required to take out a renewal of his title from the Sovereign, on payment of a fine on investitute to the Emperor and a nazarana as present to the provincial Nazim, (*c*) permitted to transfer his zamindari by sale or gift, yet, commonly, expected to obtain previous special

permission,—privileged to be generally the annual contractor for the public revenue receivable from the zamindari, (*d*) entitled to a jaigir or altamgha—authorised in Bengal since the early part of the eighteenth century to apportion to the parganas or villages the abwab or cesses, imposed by the subedars, yet subject to the discretionary interference of the public authorities, (*e*) entitled to any contingent emoluments proceeding from his contract during the period of his agreement, (*f*) responsible by the same terms for keeping the peace within his jurisdiction but, apparently, allowed to apprehend only and deliver over to a Mussalman Magistrate for trial and punishment."

Hindu Period.

Mr. Harington's analysis of the rights and liabilities of the zamindar are based on facts immediately preceding the British period. It is, however, wrong to suppose that the zamindars, as such, did not exist in the Hindu or Muhammadan periods.

Looking back through the mists of two thousand years or more one seems to discern that India was then, as now, a land of innumerable villages. Each village community had its own territory and its own local administration under a headman who in consultation with the elders of the village decided all questions relating to customary rights and duties in the area. Excepting the produce of the royal domain which, of course, belonged exclusively to the King, the entire harvest of the village was collected into a common heap and the share of the State was set aside by the headman before the general distribution. Between the village headman and the King were a gradation of intermediate functionaries who were entrusted with the collection and administration of the State revenues.

In the *Dattaka-Chandrika*, mention is made of "Gramashwami" (গ্রামস্বামী) or village landlord. The relevant passage is quoted below:—

রাজ্ঞো বিপ্রকৃতে গ্রামস্বামিনং।

বন্ধুনাহুয় সর্ব্বাংস্তু গ্রামস্বামিনমেবচ ইতি স্মরণাৎ॥

Old princes and chiefs who were brought under subjugation were often continued in possession of their lands on condition that they collected and paid into the public treasury the tax levied upon their tenants deducting or reserving a certain share for themselves.

The old rulers and independent sovereigns never claimed to be proprietors of the lands of their subjects and for the expenses of Government took a defined share of the produce, estimated at from 1/10th to 1/6th.

The Muhammadan Period.

The zamindars have grown out of the ancient Rajas, local leaders and sometimes out of the sovereign powers defeated in battle. Mr. Rouse in his "Dissertations" says—"If the zamindari be an office and such office gives possession of land which has by claim or custom descended from father to son or to collaterals with other circumstances incidental to property such as mortgage, alienation, bequest or adoption it is really a landed inheritance."

Under the Mussalman government of Bengal confirmation of succession to the big zamindaris was insisted on, in the earlier periods. But, in later times, the zamindar succeeded to his estates as a matter of course and simply by inheritance, sometimes taking a Sanad, afterwards, and sometimes never taking one at all.

(Ref. "Tagore Law Lectures."—1874-75 by Mr. Arthur Phillips.)

Calcutta Case, 1828.

I must admit, however, that it was left to the British Government to recognise the zamindars as permanent proprietors of the soil and to limit the public demand on their estates *for ever* as a piece of far-sighted public policy. This controversy about the legal position of the zamindars before the Permanent Settlement of 1793 has been finally set at rest by two important decisions of Their Lordships of the Judicial Committee of the Privy Council. In the Calcutta Case of 1828, the Lord Chancellor held "considering with the best attention, in my power, all these papers, they confirm most strongly the opinion I should have derived from the Permanent Settlement Regulations, viz.,—the proprietors of the soil (zamindars) had a permanent interest in it at the time when the English established themselves in that settlement. Moore's Indian Appeals—Vol. I, Freeman *vs.* Fairlie, 1828).

Bombay Case.

In another case from Bombay, Their Lordships of the Privy Council disposed of all the unwarranted inferences hostile to the zamindar's right of private property in the soil. (*Cf.* The Collector of Trichinopoly *vs.* Lekkamani & others decided in 1874, *cf.* Macpherson's Indian Appeals—Vol. I, 1873-74, pages 282-315).

Q. 5. Yes, the annulment of the Permanent Settlement of 1793 would be a violation of the solemn pledges of an established government and breach of contract not "of a parochially-minded provincial Government, but of the deliberate policy of the highest authority in India." It will mean that a solemn proclamation in the name of the sovereign, the promises contained in the despatches and declarations of the then Governor-General of India may be scattered to the four

winds, at the whims of the Provincial Legislature. It will prove that the zamindars were fools in pinning their faith on these clear pledges and contracts and in investing large sums of money on land, fondly believing in the promises of the Government.

A contract generally implies two parties and not three or four. The tenants did not undertake to pay revenue punctually to the Government in the permanently settled areas and were, therefore, not necessary parties to these contracts. As a matter of course they were out of the picture altogether.

It is wrong to suppose that the Permanent Settlement has permanently crippled the financial resources of the country. At a superficial reading of things it may appear that the land revenue system of the province, being inelastic, the resources of the province are crippled. The statistics however tell a different story. It is true that Bengal's income from land revenue is a fixed guaranteed figure not capable of expansion but it cannot be overlooked that Bengal pays more in stamp duties, income-tax, customs duties and pays cesses of different kinds, in addition to land revenue. Land revenue itself has gained in certainty what it lost in elasticity. The Meston Committee of 1920 calculated that 90 per cent. of the income-tax collected in the provinces came solely from Bengal. About 24 crores of rupees are collected as customs duties from ports within the territorial jurisdiction of Bengal. The consumption in Bengal of cotton manufactures, foreign liquor and tobacco, machinery, articles of food and drink, cutlery, hardware, etc., is comparatively higher. Madras with a population of 42 millions pays a little over six crores of rupees, Bombay 23 crores and United Provinces one crore only. Bengal is the most heavily taxed province even now, excepting Bombay.

Many estates have been settled permanently even after 1793 and the income from land revenue in the permanently settled areas of Bengal has now been calculated by Dr. Radha Kumud Mukherji, M.A., PH.D., at 4½ crores of rupees. Bengal also pays in road and public work cesses Rs. 92,55,000 per annum of which the zamindars' contribution may be computed at Rs. 41,50,000 per annum. I shall conclude with an extract from the speech of Dr. Radha Kumud Mukherji delivered in the Bengal Legislative Council on the 9th February, 1938, when the Bengal Tenancy Amendment Bill, 1938, was being considered. He said, "The British Government thus got a very good start out of the peasantry of Bengal, 4½ crores of immediately settled revenue by means of which Bengal had to finance its wars in the Deccan, Madras and Bombay. In those days, Madras and Bombay were deficit provinces.

* * * * * *

Even during the 5 years, 1780-1784 Bengal had to send away about 3 crores of rupees in order to finance the wars in other parts of India.

* * * We may say that in dealing with this system in which the whole of Bengal is concerned and involved, * * * * * * *

we are not considering the interest of a mere class, of a microscopic minority like the so-called zamindars. The Permanent Settlement means an annual revenue of 7 crores of rupees—4½ crores of the Permanent Settlement, 3½ crores from the consequences of the Permanent Settlement—a harvest which we are reaping today in arranging our revenue system and in producing our balanced budget. If calculation is made in this way, the revenue from stamp duty amounts to about three crores and it has been calculated that 60 per cent. of the stamp duties is made up of revenue suits and 90 per cent. out of money suits, also, are for kistibandi and therefore directly or indirectly from the Permanent Settlement. The Bengal Government still gets a revenue of seven crores of rupees, out of the total revenue of eleven crores. Now, this is the system that is supposed to be outgrowing the needs of the times."

Amortisation of land values.

It must, also, be borne in mind that whatever be the increase in land values it has been amortised through a thousand sales and transfers. The unearned income of the zamindars is, in many cases, only a dream. The zamindars of today are not, necessarily, the descendants of the zamindars of 1793.

There is absolutely no justification for a breach of faith with these persons who have acquired zamindaris for valuable consideration. The annulment of the Permanent Settlement will mean confiscation of properties acquired for valuable consideration.

Q. 6. Yes, the zamindars have, amply, fulfilled the expectations of the framers of the Permanent Settlement in extending cultivation and in developing the country as I have already shown in my answers to questions 1, 2 and 3. The Fifth Report of the Select Committee of the House of Commons submitted in 1812 contains the following— "Due to the Permanent Settlement, Bengal exhibited in every part of it, improvement on a general view, advancing with accelerated progress, in later times."

His Honour Lt.-Governor Sir Peter Grant in his Memorandum, dated the 10th of August 1861, stated, "The Settlement, as a whole, was a heavy assessment, at the time, and its wonderful financial success is beyond all question."

It is well-known that the zamindars have been chiefly instrumental in reclaiming almost half of the cultivable area of Bengal which lay waste in 1793. It has been acknowledged by the contemporary historians and high Government officials that the zamindars have been the

active and powerful factors in the development of the prosperity of the province which we find from the revenue receipts, under different heads of direct and indirect taxation.

It is commonsense that persons having the permanent interest in land would try to improve their estates in the hope of enjoying exclusively the fruits of their own good management and industry. The Permanent Settlement did not offer to the raiyats any permanency of tenure or fixity of rent, excepting in the case of Mokarraridars and istemraridars, as such the tenants had no incentive to develop their leasehold lands. The tenants had neither the means, nor the capacity to undertake any such large project.

Q. 6. (*i*) The Census figures show that population has increased, and increased rather tremendously during the last five decades but it must also be borne in mind that the great famine of 1770 swept away almost one-third population of the province. That void in population had to be filled up. Moreover due to the insanitary condition of some of the villages and the want of opportunities for employment in the rural areas, there has been a continuous exodus of population from villages to town. An examination of the population statistics of 1921 shows that towns with population of over 50,000 increased by a little over 16 per cent. in that decade. Increase of population in the towns or cities is no cause of increase in the area under cultivation. However, the pressure of population on the soil is a factor which cannot be ignored. I think 5 per cent. of the increase in the area under cultivation may be ascribed to this factor.

(*ii*) The enterprise of tenants as such, independent of the initiative and the pecuniary assistance of the landlords, has not been instrumental in the increase of the area under cultivation. After the Permanent Settlement of 1793 the tenants derived all their rights from the landlords and having neither capital nor the incentive to improve undeveloped areas, their enterprise was a negligible factor in the reclamation of waste areas, except in so far as they co-operated with the landlords by their manual labour. It is difficult to assess the extent of such enterprise. But at a liberal estimate, I may put it down at 15 per cent. of the increase in area.

(*iii*) The settled order of things brought about by the Permanent Settlement and the initiative and the pecuniary assistance of the zamindars must have been the chief factor in the reclamation of waste areas, as I have already shown in my answers to questions 1, 2 and 3. The junglebari leases go to show that large areas had been leased out on very favourable terms for reclamation of waste areas. In such leases, ordinarily no rent was payable for the first 5 years and then a graduated scale of low rent was assessed in proportion to the greater area of land brought under cultivation.

The origin of the patni taluks may also be ascribed to an assignment for money by the zamindar who wished to have waste areas brought under cultivation and was compelled by necessity to raise money, by restricting his interest in the estate.

As I have already shown in my answers to the previous questions, the initiative and pecuniary assistance of the zamindars were the chief factors for the increase in area under cultivation and I think 80 per cent. of the increase may be ascribed to this factor.

Q. 7. The gross rent roll of Bengal estimated at 12 crores, which is based on settlement reports, does not take note of the large areas that may have been rendered unfit for cultivation in the meanwhile, by diluvian, permanent deposits of sand, overgrowth of weeds, due to depopulation in some of the malarious villages and other factors. There must have been surrenders of many holdings or portions of holdings due to these factors. An allowance of at least 5 per cent. shall have to be made on these accounts.

It also assumes that the total gross rent rolls are paid into the coffers of the zamindars, readily, by the tenants without any deduction, kist by kist. This estimate totally ignores the litigation expenses, other out of pocket expenses, in the civil courts, and the heavy collection charges. It also, does not take into account the fact of bad debts. At a very moderate estimate, at least 12½ per cent. shall have to be deducted from the gross rent rolls on account of the collection charges, 2½ per cent. on account of the illegal realisations from the landlords' servants by the process-servers of the civil courts and at least 5 per cent. on account of irrecoverable bad debts.

It will thus be seen that much of the estimated increase in rent rolls is imaginary and is based on the assumption that the rents are paid by the tenants, punctually, and without any deduction.

If calculation is made after allowing the deductions mentioned by me, it will be found that the net increase in profits of the innumerable holders of estates and tenures is not more than Rs. 714 lakhs per annum.

A statement of my calculation is given below, for ready reference—

	Rs. Lakhs.
Gross rent rolls (as per Statement X of the Statistics)	1,264
Less revenue payable to Government ...	257
Nett demand of the landlords ...	1,007
Less 5 per cent. on account of diluvion, sand deposits, etc. ...	50
	957

	Rs. Lakhs.
Less 15 per cent. on account of collection charges and irrecoverable litigation, etc. ...	155
	802
Less 5 per cent. on account of irrecoverable bad debts	50
...	752
Less cesses paid by the landlords from their own pockets under section 41 of the Cess Act ..	−41·50
	714

The cess valuation of the khas lands is, in many cases, arbitrary. Waste areas or areas not fit for cultivation have been in some cases assessed at an annual value which they may never fetch. If a proper scrutiny is made, I think, at least 33⅓ per cent. may have to be deducted from the khas valuation, in many cases.

Q. 7. (*i*) Whatever may be the actual increase in the rent rolls after allowing for the items I have mentioned, the industry, good management, business capacity, prudent and anxious care of the zamindars must be responsible for at least 90 per cent. of this increase.

(*ii*) As I have pointed out in my answer to the previous question (question No. 6), the independent efforts of the tenants are a negligible factor in this increase, but if an allowance is to be made for their manual labour under the initiative and guidance of the landlords, I think 9·5 per cent. of the increase in valuation may be ascribed to this factor.

(*iii*) As Statement XVI of the Government statistics goes to show, there has been only an increase of 15·94 lakhs of rupees in the rentals of the permanently settled estates during the 25 years from 1910 to 1935. This statement also shows that the rate of enhancement is gradually on the decline. If out of the rental assets of 11·84 lakhs of rupees there has been an increase of roughly 16 lakhs in course of 25 years, the annual increase in rental would come up to 10 $\frac{14}{87}$ pie in the rupee, i.e., less than ·054 per cent. On no account, may the increase on this head be more than ·5 per cent. according to the Government statistics, at a liberal estimate.

Q. 8. Yes, the Permanent Settlement required the zamindars to conduct themselves with moderation and to secure to them the same equity and generous treatment that they were supposed to have

received from the Government. I think they have discharged their obligation faithfully. At a time when land was plenty and a large area remained uncultivated, there was a competition amongst the landlords for tenants and not amongst the tenants for lands. Tenants had to be coveted, and new tenants once introduced into the land had to be fostered with care. It is commonsense that landlords could not but be generous to their tenants under these circumstances.

It is wrong to suppose that the expectation that was made of the zamindars has not been fulfilled. The zamindars must have behaved with moderation and that was the reason why raiyats settled down in the villages and population increased in the first few decades following 1793. Had they oppressed and evicted their tenants, indiscriminately, the lands would have remained uncultivated and increase of the area under cultivation would have been an impossibility.

Q. 9. I have already dealt with this matter in my answers to questions 1, 2, 3, 6 and 7. A very considerable portion of the improvement of the estates by way of increase of the area under cultivation, and the increase in valuation, must be ascribed to the pioneer zamindars, as I have already pointed out before. The zamindars as a class have not failed to carry out the duties that was imposed on them, by the Permanent Settlement.

Absentee landlordism.

Much capital has been made of the absenteeism of the landlords in the papers and on the platforms. I beg to submit that it is a meaningless expression, in the case of big zamindars who own 1,000 or more villages in 8 or 10 different districts. It is not physically possible for one man to live in all the different villages, in all the different districts, at the same time. If he is a resident of one village, he must be an absentee landlord in all the other villages unless he manages to tour the innumerable villages throughout the year and passes a few minutes everywhere.

Only a village landlord who owns a handful of villages may stay in one village and move about in the other villages, at his convenience. In the case of big zamindars it is an impossibility. They must remain at the central place whether it be a town or a city or a village and control their affairs from there. Residence in the towns and cities is also sometimes necessary for the education of their children, for the medical aid of their ailing relatives, for association with a cultured society and lastly for being in touch with the Government officials who do not reside in villages.

I do admit that a close touch with the tenants is desirable and it is necessary that the landlords should superintend and supervise their affairs, personally, so far as practicable and inspect their village

properties, whenever possible. It is also desirable that they should be accessible to their tenants whenever the tenants care to visit them.

I must also mention that the railway system in India is indirectly responsible for the absenteeism of the landlords and the continuous exodus of people from villages to towns. Dr. Bently, the late Director of Public Health, Bengal, held that the railways in India have obstructed the natural drainage systems and have been partially responsible in converting healthy villages into hot-beds of malaria and other preventible diseases.

Q. 10. In answer to this question, I shall quote the opinion of Mr. R. C. Dutt, I.C.S., who was some time a member of the Board of Revenue, Bengal. Mr. Dutt writes thus in his "Economic History of British India"—"There may be some doubt as to the wisdom of Pitt's Permanent Settlement of the land tax in England; there can be no doubt as to that of Cornwallis' Permanent Settlement; in England the Settlement benefited the landed classes only; in Bengal the Settlement has benefited the whole agricultural community; the entire peasant population shares the benefit and is more prosperous and resourceful on account of this measure. In England, the Settlement limited the tax on one out of the many sources of national income; in Bengal it has afforded a protection to agriculture which is virtually the only means of the nation's subsistence. In England it precluded the State from drawing a large land tax to be spent in the country for the benefit of the nation; in Bengal it has precluded from increasing the annual economic drain of wealth out of the country. In England it saved the landlord class from added taxation; in Bengal it has saved the nation from fatal and disastrous famines."

Q. 11. All the grounds enumerated here are fallacious. Prejudice thrives best on ignorance. Uninformed critics have misled the people and have erroneously preached that the abolition of the Permanent Settlement is the panacea for all the evils that a mortal is subject to.

Q. 11. (*i*) I have already shown in my answers to question 7 that the net income intercepted by the long chain of intermediaries between the State and the raiyat cannot on any account be more than 714 lakhs of rupees. It appears from the Statement XI of Government Statistics that there are 61·88 lakhs of tenures and estates in Bengal paying cesses to the Government. Assuming that there are at least three co-sharers in every tenure or estate, the net assets intercepted must have to be distributed amongst 185·64 lakhs of persons. Calculated at this rate, the average income of a zamindar or a tenureholder in Bengal would come up to Rs. 3·13 per annum.

It is also a fact that, ordinarily, about 50 per cent. income from land is appropriated by the tenant.

(*ii*) It is true that the Permanent Settlement has, of necessity, led to sub-infeudation, which is not an unmixed evil. I maintain that it has led to equitable distribution of the national wealth and prevented the accumulation of agricultural profits in one individual.

(*iii*) I have shown in my answers to question 7 that the enhancement of rent in the permanently settled areas is a very negligible factor, the total enhancement during 25 years of which statistics have been supplied to me, may be computed at ·054 per cent. Even with the little enhancement the average rate of rent in the permanently-settled areas is only Rs. 3 per acre whereas it is Rs. 4-11 per acre in the khas mahal areas (*vide* Statement IX).

(*iv*) The zamindars have very limited powers of enhancement under the statute. The powers of eviction are also very much restricted under the present Bengal Tenancy Act. The system of overlordship, as it is called, has not led to any harassment. The raiyats under the tenureholders enjoy the same rights and privileges as the direct tenants under the zamindars. Had the zamindars been oppressive, the tenants would have left the permanently settled areas and repaired to the khas mahals, in search of better facilities, if any.

History tells a different story. I beg to submit that the criticism is not justified and is based on ignorance of the actual facts.

Q. 12. I do not advocate the abolition of the Permanent Settlement on any of the above grounds. If the Settlement is only permanent in theory but in practice loaded with fresh impositions, every time there is a demand for increased revenue and if the trend of modern tenancy legislation be to put off or abolish the legitimate dues of the landlords and to make it impossible for them to carry on, I do advocate the abolition of the Permanent Settlement, before there is any further depreciation of the properties by fresh impositions.

If the larger interests of the country demand it, or if it be necessary to take away the legal rights of the zamindars guaranteed under the solemn pledges and contracts of the highest authority in India, as a matter of public policy, the zamindars as a class will not stand in the way except in so far as they may claim adequate compensation for the valuable rights they have acquired and the large investments they have made in land, believing in those pledges.

Q. 13. I have already shown that the argument rests on a wrong premise. The Permanent Settlement does not involve a loss to the State to the extent of about 75 per cent. of the raiyati assets, as I have already shown in my answers to questions 5, 7 and 11. Admitting that it involves a loss, it is more than compensated by the receipts under other heads of revenue. The Permanent Settlement cannot be regretted

when we consider what difficulties it conquered and what prosperity it had introduced and achieved.

I shall again quote from the speech of Dr. Radha Kumud Mukherji, M.A., PH.D., delivered in the Bengal Legislative Council on the 9th February 1938. He said:—"I have also calculated that at present this land system involves fifty seven lakhs of holdings and if you bar out the higher zamindars by this standard that they must have an income of at least Rs. 12,000 per annum, you will find that there are only seven hundred such landlords in the whole of Bengal out of a total population of fifty millions. Therefore they really are a microscopic minority, in the picture. What is of most consequence is that the entire landed interest of the province involves the bulk of its vast population. I have further calculated that a nett income of about ten and a half crores is intercepted by the landlord class while the gross income from land amounts to about fifteen or sixteen crores. If we deduct the charge of collection at 10 per cent., if we deduct cess and land revenue, we find that a nett sum of ten and a half crores has been intercepted by the zamindars. If we take fifty seven lakhs of holdings to be under superior landlords and if we give to a holding at least three co-sharers, we find an income of Rs. 6 per head per such landholder. This system is really supporting about half of Bengal's population. As you know Bengal is still intrinsically the richest province in the whole of India. Her gross revenue is *thirty-eight crores* of rupees, but on account of deductions by the Centre, her residual revenue amounts to about eleven or twelve crores. But there is no gainsaying the fact that the intrinsic wealth of Bengal is the highest, on record, in India. Bengal is, artificially, reduced to the condition of the poorest province in India. We have a sore financial quarrel with the Centre always and we must carry on this fight up to the end.

What I am going to say is: how is Bengal so rich? All her wealth comes from her prosperous middle class which is really accountable for her high purchasing power, which again is reflected in the highest income-tax receipts which Bengal pays to the Centre. Bengal, you know, is the richest province in India in regard to the receipts from income-tax. Therefore I say that this purchasing power of Bengal is bound up with the most important industry of Bengal, *viz.*, the land industry, agriculture; so that if we want to rehabilitate agriculture, if we want to set the peasant on his feet again, we must not be carried away by the idea that we can do so by merely depriving another class of its rights. Nothing of the kind, we must make this supreme industry of India more paying, more economical, more yielding of benefits to the rural peasants who have been driven to the verge of starvation, in spite of the fact that on the basis of this industry has been reared up

a prosperous middle class which is paying so much to the revenues of Bengal and to the Federal Government."

Q. 13. (*i*) The argument is wrong. If the Permanent Settlement is abolished, the receipts under the following heads of revenue will record a large fall: (*a*) Stamp duties, (*b*) Income-tax, (*c*) Jute tax, (*d*) Customs and, the land revenue will fall off in years of distress and famine which are very common in a poor country like India.

(*ii*) This will not be a new adventure. Temporary settlements of estates were tried before 1793 and they dismally failed. Temporary settlement will take away the incentive to improve lands and the summary process of the realisation of the rent and rack-renting will accelerate the progressive pauperization of the country. The income shall be uncertain, and there may be large defalcations by the rent collectors. It will also add to the costs of administration, without any proportionate increase in revenue.

(*iii*) Land revenue is not to be looked upon as an ordinary mode of taxation. It combines in itself both the characteristics of rent and tax. Taxation on land in India in the shape of land revenue or rent and cesses of different kinds (road and public works cesses, education cess, etc.), has reached its maximum limit. Land is overburdened with too many taxes and any further taxation would make agriculture unremunerative and a losing concern. It will also be a failure as a fiscal policy, as the yield will be comparatively low in proportion to the cost and difficulties involved in ascertaining the income. It is neither administratively feasible, nor practically worth while to impose taxation on agriculture which has ceased to be a paying business in India due to low production, low price of the staple food crops, heavy indebtedness of all those concerned in agriculture and excessive fragmentation. I cannot advocate agricultural income-tax either from a purely fiscal point of view or on the grounds of justice, equity and good conscience. The Indian Taxation Enquiry Committee of 1924-25, in spite of its findings was constrained to report, for practical reasons that the abolition of the exemption of income-tax on agricultural incomes is both "inopportune and undesirable."

I shall conclude my answer with an extract from the Minute of Lord Cornwallis, dated the 3rd February 1790, when he dealt with this question as Governor-General of India:—

"The supreme power in every State, must possess the right of taxing the subject, agreeably to certain general rules, but the practice which has prevailed in this country for some time past, of making frequent valuations of the land, and where one person's estate has improved, and another's declined, of appropriating the increased produce of the former, to supply the deficiencies of the latter, *is not*

taxation, but in fact a declaration, that the property of the landholder is, at the absolute disposal of the Government. Every man who is acquainted with the causes which operate to impoverish or enrich a country, must be sensible that our Indian territories must continue to decline, as long as the practice is adhered to.

The maxim that equality in taxation is an object of the greatest importance and that in justice, all the subjects of a State should contribute as nearly as possible, in proportion to the income which they enjoy under its protection, does not prove the expediency of varying the demand of Government upon the lands; on the contrary, as we shall find that, in countries in which this maxim is one of the leading principles in the imposition of taxes, the valuation of the land upon which they are levied is never varied.

In raising a revenue to answer the public exigencies, we ought to be careful to interfere, as little as possible, in those sources from which the wealth of the subject is derived.

Agriculture is the principal source of the riches of Bengal, the cultivator of the soil furnishes most of the materials for its numerous manufactures. In proportion as agriculture declines, the quantity of these materials must dinimish, and the value of them increases and consequently the manufactures must become dearer, and the demand for them be gradually lessened. Improvement in agriculture will produce opposite effects.

The attention of Government ought therefore to be directed to render the assessment upon the lands, *as little burdensome as possible*: this is to be accomplished only by fixing it. The proprietor will then have some inducement to improve his lands; and as his profits will increase in proportion to his exertions, he will gradually become better able to discharge the public revenue."

Q. 14. I do not advocate abolition of the zamindari system on the grounds mentioned in questions 13 (*i*) and 13 (*ii*). But if the Permanent Settlement is to be abolished for the reasons mentioned in my answers to question 12, the sooner it is done, the better. Whatever may be the counter-scheme offered by the Government for the amelioration of the condition of the masses, in case of abolition of the Permanent Settlement, adequate compensation must be paid to all the zamindaris and tenureholders. As is done in the case of compulsory land acquisition, full market value assessed at 20 years' valuation of the annual rent roll (as per cess re-valuation figures of the Government) less 10 per cent. collection charges added to which 15 per cent. of the annual value will have to be paid for compulsory acquisition of private property in land. The zamindars and other persons who have acquired zamindari for good consideration have invested large sums of money

in land in good faith, believing in the solemn pledges of the Government. There is no equitable reason why they should not be paid back their good money in case of compulsory acquisition. As the raiyati assets are calculated by the Government at 12 crores of rupees, a sum of 240 crores of rupees may be required to buy up the zamindaris and tenures. If the khas lands of the zamindars and the tenureholders are also to be bought up, a compensation of rupees 320 crores may have to be paid.

The zamindars may also claim a certain price for the unsued arrears of rent and the unrealised decretal dues of rent for which 15 years' purchase value may be paid, on the nett arrears, calculated at 80 per cent. of the outstanding demand.

Q. 15. If compensation is paid in bonds and not in cash, I think it may be paid in 5 per cent. income-tax free bonds, redeemable after 20 years. The bonds should be termiable. A moderate yield of 5 per cent. may be asked for in view of the higher prices that must have been paid by many persons in acquiring these zamindaris and also, in consideration of the loss, in social status and prestige that the compulsory acquisition of zamindaris will entail on the present holders.

Q. 16. The State purchase of zamindaris will compel the zamindars to curtail or stop the social activities and charities. The middle class, which supplies the strata of educated men, will disappear. The majority of the middle class people live on the profits of land.

Q. 17. Yes. In case of State purchase of zamindaris the interest of all the tenureholders between the zamindar and the raiyats should be purchased at 20 years' value calculated on the nett annual rent-roll, less 10 per cent. collection charges.

I am afraid the history of the revenue system of Bengal before 1793 will repeat itself. But the tenureholders being freed from the cares and worries of management and the constant anxiety for raising money to meet their liabilities, will divert their attention to other profitable industries.

Q. 18. The additional machinery necessary to carry on the administration will consist of a chain of officers and staff which may cost the Government about 2 crores of rupees.

Q. 19. I am afraid the raiyats would not prefer to come under the khas mahal administration of the Government, as the summary process of realisation of revenue and agricultural loans is considered oppressive by the raiyat and the Government is the most successful enhancer of rents. It is also a fact that the average rate of rent is higher in the khas mahal areas than in the permanently settled areas. I am not aware that the tenants in the khas mahal areas enjoy any advantages over or are better off than the tenants in the permanently settled areas.

Q. 20. Yes, the subinfeudation has come as an economic necessity after 1793. When the zamindars found the estate too big for them, they sublet it to others and so on. The social and economic condition of the raiyats has not been much affected as they enjoy equal facilities and advantages with the direct raiyats under the zamindars. It has, however, prevented the growth of economic holdings. In some cases, the rate of rent of the under-raiyati holdings is rather high. But the number of under-raiyats is so small that they do not form a class in themselves.

Q. 21. With the disappearance of the tenureholders who form the bulk of the middle class, the social and economic activities of the province will be seriously affected. Private charities will disappear and many of the village institutions maintained by the tenureholders, such as schools, dispensaries and places of religious worship may be abolished. The avenues of employment for Indians being very limited many of these dispossessed tenureholders may swell the ranks of the unemployed.

Q. 22. In case of State purchase of zamindaris, compensation in the shape of 20 years' price on the annual cess valuation of the khas land of the zamindars and tenureholders should be paid and the khas lands also to be purchased by the Government. The homesteads with existing structures, if any, must be left to them on payment of a fair rent to the Government. The criterion for the zamindars' khas lands shall be their title deeds and possession.

Q. 23. A prescriptive right similar in nature to "occupancy right" was supposed to exist and was recognised in favour of the khudkhast raiyat who had cultivated his land for a continuous period of 12 years previous to 1793. No protection from eviction in favour of any other class of raiyat was provided for by the Permanent Settlement Regulations. The "occupancy-right" as such was a creation of the British legislation.

Q. 24. I have already dealt with this question in my answer to question 4. "Proprietorship" in the English sense of the term or ownership in land corresponding to that cluster of rights, the highest known to the English Law, namely, "fee-simple" was unknown to India. During the Hindu and Muhammadan periods, even the independent sovereigns never claimed it and the tillers of the soil never dreamt of it.

Whether land revenue is a tax or rent was the subject of considerable controversy for nearly a century and a half and the nature of land revenue in India puzzled the early English administrators, for a long time. But it is no longer a live issue. The question is now only of academic interest.

No doubt there has been divergence of opinion among the English economists and the historians on this point. This question has been thrashed out by the Indian Taxation Enquiry Committee of 1924-25. It is needless to enter into that controversy now.

Sir Louis Mallet has pointed out that "to treat rent as a tax is to counteract and neutralise the law of supply and demand to renew the demand afresh without increasing the supply and tends directly to a *progressive pauperization of the country and the community.*"

In the Bombay High Court Case of 1875 (Vyakuntha Bapaj *versus* The Government of Bombay, reported in the Bombay High Court Report, Vol. xii, 1875), the learned judges of the High Court, after an elaborate survey and review of the authorities on the subject, have held that "the proprietary right of the sovereign derives no warrant from the ancient laws or institutions of the Hindus and is not recognised by the modern Hindu lawyers as exclusive or incompatible with individual ownership."

"The allegation that the cultivating raiyats have always been the actual proprietors of the soil" is now an exploded theory and it is now too late, in the day, to reassert it.

The misconception is due to the fact that the term "cultivator" in the ancient texts very often meant the actual tiller as well as the landlord or the rent receiver and that in some parts of India, as for instance, in Bundelkhand, the village landlords were the actual cultivators.

In the series of questions put by Sir John Shore to Gholam Hossain Khan, the celebrated author of "*Siyar-ool-Mutakharin*" given in Harrington's Analysis, Vol. III, at page 314, it is reported that the historian demolished all objections that were raised against the proprietary rights of the zamindars and cited some instances where the zamindars succeeded by inheritance without confirmation of the Ruling Power. Golam Hossain Khan stated "that this has been always the case with the zamindars of Bijapore, Tirhoot, Bettiah, Sirca-Saraun, etc." Gholam Hossain further stated that "the Emperor was proprietor of the revenue but not of the soil, and that if the Emperor wanted lands, he had to purchase it from the zamindars." He gave some such instances.

The following passage occurs in the Minute of the Board of Revenue, Madras, dated the 5th January 1818, which throws light on the subject. "In investigating the rights of the *raiyats*, the Board deem it proper to premise that the term which is familiar to all connected with Indian Finance is here employed by them to distinguish that *particular class among them* only who employ, superintend and sometimes assist the labourer and are everywhere the farmers of the country, the creators and the payers of the land revenue."

The Hon'ble Mountstuart Elphinstone in his "History of India" at page 72 describes the rights of raiyats in the following lines: "As much of the produce as comes into the hands of the landholders after the King's share is provided, is his; and his power to dispose of his right to it for all future years is unrestrained. The tenant has what remains of the produce after the King's proportion and the landlord's rent is paid; and this he enjoys in perpetuity, but the right is confirmed to himself and his heirs and cannot be otherwise disposed of."

It will thus be seen that the absolute proprietorship of the cultivating raiyats is only in the imagination of the pseudo-politicians.

Q. 25. Yes, the Bengal Tenancy Act of 1929 gave occupancy-right to a large number of under-raiyats. I am not in favour of maintaining or extending this principle to the case of more than one grade of tenants. In my opinion, occupancy right should only be given to the statutory raiyats and to nobody else. If this right is granted to more than one grade of tenants, it will only help further sub-infeudation. The actual tiller of the soil is very often the day labourer. He neither claims nor is he entitled to any protection from eviction. If the occupancy right are given to actual tillers, in every case, the statutory raiyats will be expropriated and the middle class will vanish.

Q. 26. The extension of occupancy right to more than one grade of raiyats will only lead to still further sub-infeudation and add complications to the already complicated land tenure system of Bengal. I do not advocate the principle that the occupancy right should vest in the cultivating raiyats in every case. The further section of the question do not arise.

Q. 27. No. Only the khudkhast raiyats occupying lands for 12 years previous to 1793 were protected from eviction. Under Regulation VIII of 1793, no patta of a khudkhast raiyat was to be cancelled except upon proof of collusion. There was also a provision that the rents of the khudkhast raiyats could not be raised, unless the zamindars could prove that they had paid less for those lands during the last three years than the "nirik" of the pargana. Article VII of the Bengal Regulation I of 1793 mentions, "dependent talukdars, raiyats and cultivators of the soil" but not the non-agriculturist tenants. Non-agriculturists were not contemplated by the Permanent Settlement Regulations.

I am in favour of giving occupancy right to such non-agricultural tenants only as have taken leases from landlords, on any such terms or contracts.

Q. 28. Not necessarily. Ordinarily the zamindars should have the right to forfeit such leases.

The question of State intervention does not arise. So long as the Permanent Settlement stands, the State has absolutely no right to levy any additional tax or rent for conversion of such lands. The zamindar under the Permanent Settlement is entitled to the additional rent or tax, if any, for the conversion of such lands.

In the case of town lands the owner of the building pays municipal taxes for the holding and income-tax for his business profits, if any. If land revenue on the building site converted into non-agricultural purposes is again assessed on the annual value of the land, it will be in the nature of a double assessment.

Q. 29. Yes, in some areas the number of bhagchasis may be on the increase, due to the causes mentioned in question 30. Ordinarily the number is steady.

Q. 30. I think all the three factors, (*i*), (*ii*), (*iii*) are responsible for the increase, if any, in the number of bhagchasis or adhiars.

Q. 31. The area of land normally held by a bhagidar is two or three acres.

No. Ordinarily the bhagidars do not hold lands in raiyati or under-raiyati right.

Q. 32. No. The bargadars are practically agricultural labourers and are paid in kind by a share of the produce. They neither claim, nor are entitled to any protection from eviction.

Q. 33. Yes. In my humble opinion, the barga system is economically sound. There is no harm in its extension. It provides employment for a section of the landless class.

Q. 34. The effect of giving occupancy right to bargadars will be robbing the statutory raiyats of their legal rights and would spell the ruin of the middle class.

Yes. The zamindars and others will keep the khas lands in their direct possession or sell them away. It will throw all the bargadars out of employment.

Q. 35. Ordinarily 50 per cent. of the gross produce is paid to the landlords which may be said to be a fair proportion. Custom varies in different areas. If any limit is to be fixed the maximum of the landlords' share may be fixed at 60 per cent. of the gross produce.

Q. 36. The wages of agricultural labourers are usually 4 to 5 annas per day in addition to food. They are sometimes better off than the bargadars and under-raiyats.

Q. 37. Yes, the Act of 1929 has increased the tendency of passing considerable areas of raiyati holdings to non-agriculturists. The results will certainly be prejudicial to the interests of the cultivating raiyats as a whole. The Tenancy Act of 1938 has made such transfers still more easy and in course of time, the *bona fide* raiyats may cease to hold any agricultural lands whatsoever.

Yes, I am in favour of restricting the transfer to agriculturists only, if practicable, by legislation. The other method is to restore the landlords' fee on transfers which may operate as a check, on easy transfers.

Q. 38. In my opinion, the size of an economic holding for cultivation, in the traditional manner, may be fixed at 20 acres. Fragmentation of holdings involves large expenses or costs of cultivation and a comparatively smaller yield. It has been calculated that expenditure of cultivation increases by 5·3 per cent. per every 500 metres of distance for manual labour and ploughing; 32 to 35 per cent. for transport of manure and from 15 to 32 per cent. for the transport of crops.

It entails wastage of labour, time and cattle power and leads to large loss of land owing to boundaries. In the case of fractional holdings intensive cultivation is not possible and introduction of outsiders with more capital is an impossibility.

An "economc holding" no doubt means a holding of which the yield is sufficient to maintain the agriculturist and his family, in reasonable comfort after defraying the costs of cultivation. In the case of cultivation in a more scientific manner with the aid of tractors and other modern implements, I think an agricultural holding should comprise at least 500 acres of land.

Q. 39. Yes, unfortunately, it is a fact. The laws of inheritance, the statutory rights of easy transfers and subdivision, the increase of population will, of necessity, lead to further subdivision and fragmentation of holdings.

The average unit of a raiyati holding for 10 districts has been calculated as 1·94 acres in which there are at least 5 co-sharers.

Q. 40. It is a difficult problem. This may only be practicable by acquisition of small holdings on co-operative basis and making the individual raiyats shareholders, in the society.

Q. 41. Yes, "reserve bidding" as in the case of partition of estates may be provided for to help the cultivator to consolidate his holdings.

The Bengal Land Improvement Act may be amended so as to provide for loans for these purposes.

Q. 42. The question is problematical. It cuts both ways. Accumulation of large areas in one particular hand may make the holding economic, at the same time it may deprive others of their holdings. The law of demand and supply must operate. I do not consider it desirable to place any limitation by legislation on the accumulation of holdings.

Q. 43. Yes, coparcenary is detrimental to good cultivation. The appointment of a common manager may minimise some of the evils but it has its disadvantages also. The co-sharer common manager may try to cheat the smaller holders and refuse to render accounts. The law of inheritance shall have to be changed to deal properly with this question.

Q. 44. Practically nothing, unless the Hindu and Muhammedan laws of inheritance are changed and the Bengal Tenancy Act of 1938 is amended so as to restrict easy transfers and to check fragmentation.

The method of buying up coparcenary property on co-operative basis and allotting shares to individual holders may be tried, if possible.

Q. 45. The law is there already. Section 93 of the Bengal Tenancy Act, 1938, provides for the appointment of a common manager, under certain circumstances.

Q. 46. Yes, the Permanent Settlement of 1793 was a device to exact the maximum possible revenue out of the ascertained assets at that time, with the least possible inconvenience to the Government. Even, to-day, nobody can enter on any business on such a small margin of profit. The zamindars were caught in the trap and are now paying the penalty of their folly by the development of subsequent events.

In order to show what was in the minds of the framers of Permanent Settlement, I quote below an extract from the Minute of Lord Cornwallis, Governor-General of India, dated the 3rd February 1790, "* * * * for so long as we profess to leave to the zamindars no more than that proportion of the produce which they generally receive from the raiyats and claim a right to appropriate the excess to the public use, from what fund are they to make good the losses they suffer, in years of distress and failure of crops? * * * We may reasonably expect that they will provide for occasional losses from the profits of the favourable seasons."

The preamble to Regulation XLIV of 1793 runs as follows:—"It is essential * * * that the proprietors of land should have a discretionary power to fix the revenue payable by their dependent taluqdars and to grant leases or to fix rents of those lands for a term sufficient to induce the dependent taluqdars, under-farmers and raiyats, to extend and improve the cultivation of their lands."

The following extract from the Despatches of the Board of Directors will go to show that it was contemplated by the framers of the Permanent Settlement that the zamindars would increase their income by reclaiming waste lands and by enhancing the existing rents.

The Board of Directors wrote to the Government of Bengal in their letter, dated the 15th of January 1812, "the Permanent Settlement has secured to the proprietors of the estates, the whole of a *rise in their rentals*."

Again in the year 1815, the Board of Directors wrote as follows—"the effect of the Permanent Settlement on lands, such as has been established, in the Lower Provinces of Bengal is to *augment* the landlords' rent."

Sir Edward Colebrooke held, in his Minute, that under the Permanent Settlement the zamindar had the power of fixing his rents, in his own discretion.

Q. 47. No, that is a wrong notion, as the purport of the Regulations and the intention of the Government discoverable from what the Government did and allowed the landlords to do, will go to show.

The language of the kabuliyat or engagement for the Permanent Settlement runs thus:—"I will not demand any sum *beyond account* from the raiyats." This only refers to abwabs or cesses above the agreed rent. As I have shown in my answers to question 46, the preamble to Regulation XLIV of 1793 goes to show that the enhancement of rents other than those of the raiyats that were *expressly protected* from increase was clearly contemplated.

Colonel Munro writing in 1806 observed: "I suppose that the zamindars of Bengal are to be at liberty to raise their rents, like landowners in other countries; for if they are restricted from raising the assessment by the Government and at the same time are liable for all losses, they have not the free management of their estates and hardly deserve the name of owners."

The Regulation further says: "that the Permanent Settlement fixed the public demand of the whole estate and left the proprietor to appropriate to his own use, the difference between the value of the proportion of the produce payable to the State and the sum payable to the public." It is certainly beyond controversy that the value of the certain proportion of the annual produce to which the Government was supposed to be entitled, was never fixed and definite, the difference between the indefinite quantity and the definite demand must have been indefinite and the authors of the Permanent Settlement must have known this. They must have known that the zamindar's income under the Permanent Settlement was indefinite, variable and subject to increase or decrease.

In order to discover the intention of the parties to an instrument, we may properly see what they have done under it. If we find that the zamindars, immediately after the conclusion of the Permanent Settlement, enhanced the rents of the raiyats, and the Board of Directors and the Government of India, not only took no steps to prevent it, but practically aided it by subsequent legislation and the Government itself in private estates under management of the Court of Wards enhanced rents and *enhanced them more determinedly and effectually than private proprietors did or could*, we may reasonably conclude that this enhancement was intended at the time of the Permanent Settlement. The Government is a *corporation having perpetual continuance*. Government itself was and *is the most successful enhancer of rents*.

Q. 48. I have already dealt with these matters, at some details, in my answers to questions 46 and 47. The only tenures of which rent was fixed in perpetuity were mokarraridars and istemraridars who had held (*a*) at a fixed rent for more than 12 years prior to 1793, or (*b*) contracted for payment, at a fixed rent, with the zamindar or actual proprietor. The second class of tenureholders were not protected in the case of revenue sales under Act XI of 1859, unless they had their interest registered in the special register or common register.

The khudkhast raiyat was protected from eviction under certain circumstances as I have already shown. Other tenancies existing at the time of the Permanent Settlement were not protected by the Bengal Regulations—

(*a*) The terms of the Permanent Settlement Regulations;

(*b*) The Bengal Regulations that followed;

(*c*) The Acts and declarations of the authorities prior to the Rent Act of 1859 prove my contention.

In this connection I quote an extract from a judgment of their Lordships of the Privy Council which is relevant to the point.

Privy Council (Radhika Choudhurani vs. Bamasundari Dasi, 13 Moore's Indian Appeals, page 248).

"A suit to enhance proceeds on the presumption that the zamindar holding under the Perpetual Settlement has a right from time to time to raise the rents of all rent-paying lands within his zamindari according to the pargana or current rates, unless he be either precluded from the exercise of that right either by a contract or the lands can be brought within one of the exemptions recognised by the Permanent Settlement of 1793. *The right of the zamindar to enhance rent is presumable until the contrary is shown.*"

Q. 48. (*d*) The Rent Act of 1859 and the Bengal Tenancy Act of 1885 went beyond the intentions of the framers of the Permanent Settlement. This was the opinion held by an eminent Jurist,—I mean Chief Justice Sir Barnes Peacock who in the dissentient judgment in the Great Rent Case of 1865 (Thakuranee Dassi *vs.* Biseswar Mukherji, 3 W.R. Act X, Ruling, p. 29) held "By the terms of the Permanent Settlement Government pledged themselves to the zamindars that they were to have the full benefit of the assessments having been made permanent. To hold that the landowners are not fairly and equitably entitled to receive from the raiyats since the Permanent Settlement, as much as they would have done if the assessment had not been made permanent and the land had been re-assessed is, in my opinion, to put such a construction upon Act X of 1859 as to render it a *violation of the pledge* made by Government to the zamindars, at the time of the Permanent Settlement, for there is no doubt, in my mind, that to give the landholder the full benefit of that engagement, they ought to be allowed to collect as much from the land and to enjoy as large a portion of the nett produce, without an increase of the assessment, as they would have done if the Settlement had not been made permanent and the landlords had been re-assessed in fact, they were to have full benefit of the assessment being fixed *for ever*, instead of being subject to have it increased, in proportion as the value of the land increased" (at page 115 of the judgment).

And, again, with an indignation which a judicial mind alone can feel, at the wanton invasion of the rights of others, Sir Barnes Peacock observes at pages 117-118 of the judgment "to raise the status of the raiyat, and instead of leaving him as an agricultural labourer without capital or property, to convert him into a co-proprietor, with interest equal to or greater than those of the zamindars, would doubtless be very benevolent, if one were to do so, *at his own expense*. But, for the legislature by sacrificing the rights of the zamindar would, as it appears to me, far from being fair and equitable be *an act of the greatest injustice*"—and he goes on to say "on the contrary I should consider that I was holding that the legislature, in passing the Act of 1859 had *violated the engagement* which the Government made with the zamindars, at the time of the Permanent Settlement and had exercised a power which Government stated no longer existed, when in *Regulation II of 1793*, they declared in the most emphatic language that "No power would then exist in this country by which the rights vested in the landholders by the Regulations could be infringed or the *value of the landed property effected*, that land must in consequence become the most desirable of all property and the industry of the people would be directed to those improvements in agriculture which were as essential to their own welfare as to the prosperity of the State."

Q. 48. (*e*) This is the fallacy which does not stand a moment's scrutiny. I have already shown in my answers above that the declarations contained in the Minute of Lord Cornwallis, dated the 3rd February 1790, the letters and despatches of the Board of Directors, the opinion of the contemporary writers on the Land Tenure System of Bengal, all go to show that the rents of the raiyats were not made unalterable, and the enhancement of rents by the zamindars was clearly contemplated.

It will, perhaps, appear to persons of ordinary intelligence impossible to argue, in the face of the texts and authorities I have cited, that the authors of the Permanent Settlement intended to fix the demand upon the cultivators or the rents of the raiyats.

Q. 49. The argument rests on a false premise. I have already shown in my answers to questions 46, 47 and 48 that it was not the intention of the framers of the Permanent Settlement that the rents of the tenants, then existing, should never be increased.

There is no case absolutely either on historical or economic grounds, to reduce the rents of the raiyats to the rates prevailing, at the time of the Permanent Settlement. It is nowhere said in the Bengal Regulations or in the despatches of the then Governor-General that the rents of the raiyats were fixed for ever, excepting in the case of the two kinds of tenures mentioned above. A cursory glance at the price lists of the staple food crops from 1897 to 1926 will convince all critics that the slight increase in rent is justified.

In the 22 years following the Permanent Settlement almost half of the landed property in the province was transferred by public sale and it is impossible to trace the prevailing rate of 1793 or successors in interests of tenants existing at the time of the Permanent Settlement.

Q. 50. I have already shown in my answers above that it was not the intention that the rents of either class of raiyats should remain unalterable. On the contrary, the Rent Act of 1859 and all tenancy legislations that followed rather violated the pledges of 1793 and ignored the interests of the landlords.

I have quoted above the remarks of Chief Justice Sir Barnes Peacock in the Great Rent Case to show that the Rent Act of 1859 violated the covenants of 1793 and barred the enhancement of a certain class of raiyats. I beg to submit that this was the first inroad into the rights of the zamindars.

Q. 51. No, it was not the intention of the framers of the Permanent Settlement that future settlements of waste lands were to be made, at the pargana rates.

It is apparent from the Bengal Regulations themselves. The preamble to the Regulation XLIV of 1793 shows that "the proprietors of land should have a *discretionary power* to fix the revenue payable by their dependant talukdars." Section 52 of the Regulation VIII of 1793 runs thus—"the zamindar is to let the remaining lands of his estate or zamindari *in whatever manner* he may think proper."

Q. 52. There cannot be any hard and fast rule for determining fair and equitable rent. It must vary according to the facts and circumstances of the case. The Collector of Rajshahi rightly observed—in his report—"the infinite varieties of soil and the further variations of value from local circumstances are absolutely beyond the investigation or almost the comprehension not merely of a Collector, but of any man who has not made it the business of his life."

This question was thrashed out by the learned Judges of the Calcutta High Court who tried the Great Rent Case of 1865.

Q. 52. (*i*) This is one of the definitions of economic rent. If literally followed this may lead to rack-renting. The new rent must be lower than a full rack-rent as the old rent was lower than the full rack-rent. The prevailing rate payable by the same class of raiyats, for lands of a similar description, with similar advantages, in the neighbourhood may be taken into consideration. The learned Judges in the above case held that the most equitable thing would be to give the land-owner 3/4ths and the tenant 1/4th of the nett increase.

(*ii*) Yes, this is another version of economic rent, It is perhaps more reasonable.

(*iii*) Yes, this may be a disadvantage in the case of the poorer lands, but a gain in the case of the better class of lands.

(*iv*) This is another principle which may be tried in some cases.

(*v*) Custom has been the most important factor in the determination of rents in Bengal. Uncertain and variable though this item is, according to the demand for the produce grown and the nature of the soil in different localities, it is not unfair as a guiding principle in the determination of rents. The rent to be fixed must bear the same proportion to the present gross value of the produce as the old rent did to the former gross value of the produce.

(*vi*) Where land is fully developed and there are moneyed men in the locality, and the pressure of population on the soil high, competition comes in as a factor in the determination of fair rents. It is to be considered along with other circumstances.

Q. 53. I have no personal knowledge of the state of affairs in the Government estates. Regarding the permanently settled estates I may

say that all the principles or most of them enumerated above must have been at work in the determination of the present rents paid by the cultivators. I do not think that the majority of rents may be described as lump rents.

It is difficult to assess the extent to which these principles have come into play in the determination of rents. I think (*a*) custom, (*c*) consideration of the productivity of the land, these two factors must have been initially at work in the determination of rents.

The second factor (*b*) competition came in at a later stage, with the growth of population and the increase of demand for land.

Yes, it is true that the rates differ greatly for lands of similar description in different localities, according to the variations of demand for land and the nature of the produce grown. Generally, the rates for a similar class of land do not vary in the same village.

Q. 54. Unfortunately this may happen in some cases, as the poorer tenants being unable to purchase the better class of land or to make any capital outlay for the better mode of cultivation, may take lease only of the inferior qualities of land. The rent of the inferior qualities of land may appear to them to be proportionately a little higher, in view of the low yield of those lands. Such tenants do not usually pay any premium or salami to the landlord at the time of the settlement.

Q. 55. Even if all the zamindars and middlemen are removed, re-adjusting of rent on a uniform basis throughout the province is an impossibility. Rates must vary in different localities for the same class of land according to custom, competition, price levels, nature of produce grown, etc. No new record of rights is necessary.

Q. 56. If a definite share of the produce or its equivalent in cash is paid, I would recommend 60 per cent. of the gross produce, for payment to the existing landlord or the State, as the case may be.

Q. 57. If the State limits its demand in perpetuity not only in theory but in practice and ceases to impose fresh taxation by way of road and public works cesses, education cess, agricultural income-tax, death duties on succession to landed properties, etc., the necessity for enhancing the rents of raiyats would cease. In that case, I think the rents of raiyats now determined on the above or any other principle may be fixed in perpetuity.

It is not desirable to vary the land revenue according to the varying needs of the State as was very pertinently pointed out by Lord Cornwallis in his Minute, dated the 3rd February 1790, which I have quoted in my answers to question 13 (*iii*). Land revenue is not to be looked upon as an ordinary mode of taxation, be it called rent or tax

or by whatever name, its variation shakes the foundation of settled government. If the Government ceases to make any further imposition of tax and withdraws the assessment of education cess which the land is unable to bear, I think the necessity for re-examination of the rates of rent of the raiyats, from time to time, would cease.

Otherwise the rates of rent of the raiyats will have to be re-examined every 15 years, as now.

Q. 58. I do not think there would be any advantage in the substitution of an income-tax on the profits from agriculture in place of rent. It will only reduce everything to a temporary expediency and destroy all enlarged views of improvement. It will reduce the State to a tax-collector only and will keep it engaged perpetually in the degrading struggle for taxes and still higher taxes. The Government will have no leisure to turn its cares to the other functions of a Sovereign Power—I mean the improvement in the sanitary and economic condition of the people.

It will make the method of collection more cumbrous and still more complicated. Considering the involved condition of the petty agriculturist, I think a minimum income of at least Rs. 500 from agriculture will have to be exempted from income-tax in case it is substituted for rent. A large proportion of land in Bengal may consequently escape payment of revenue or income-tax.

Q. 59. If there is any defect in the principles or the procedure for fixing fair rents, it is on the side of leniency. I think the procedure for fixing the fair and equitable rents and for enhancing rents under the Bengal Tenancy Act is very rigid and needs no modification.

Q. 60. No, I do not object to the enhancement of rent as a result of fluvial action. Even fluvial action has to be paid for in these days. The landlords pay the canal rates and rather high rates, where there are irrigation facilities. It is only fair that rent of the raiyat should be enhanced in such cases according to law. It is also equitable because the tenant has the corresponding relief under section 38 of the Bengal Tenancy Act by way of reduction of rent where the soil permanently deteriorates by deposit of sand or otherwise.

Q. 61. No, I do not object to the limited enhancement of rent, on the ground of a rise in prices, as the landlord has a share in the produce and has to pay increased indirect taxation on account of rising prices.

It is, also, common sense that the landlord should make good his loss in the years of depression by sharing a part of the profits, in the years of agricultural prosperity.

Moreover it must be borne in mind that the raiyat has the corresponding relief under section 38 (*i*) (*b*) of the Bengal Tenancy Act for reduction of rent where there is a fall in the average local prices of staple food crops.

Q. 62. This practically makes no difference. But the fact may be taken into consideration in fixing the rate of enhancement.

Q. 63. The term "prevailing rate" is a very vague and ambiguous expression as it is an uncertain and variable item. It is difficult to ascertain this as the same class of land under similar conditions may command different rates of rent in different localities, according to custom, competition and the nature of the produce grown.

I do not object to the enhancement of rent on this ground, in principle, but all other factors must be taken into consideration.

Salami or premium paid to the landlord is not an advance payment of rent. It represents the difference in income to the landlord from khas possession of the land and income from possession through a tenant, and the improved market value of the land.

Q. 64. Section 29 of the Bengal Tenancy Act provides against high contractual rents. The limitation of rents for new settlements is economically and fiscally unsound.

Q. 65. The time limit for applications under sections 105 and 106 of the Bengal Tenancy Act may be extended to 6 months.

Q. 66. I do not know of any such case.

Q. 67. Yes, I think that is the object.

Q. 68. I do not know of any.

Q. 69. If the Government enhanced rent of any raiyat during the years when prices were steadily going down and had gone down lower than the average prices of the staple food crops during the currency of the present rent, it would be a mistake. Such cases will naturally cause hardship to the tenants.

Q. 70. The law of demand and supply operates. The rates may vary according to the presence or otherwise of moneyed men in the locality and also, according to custom, competition and the nature of the produce grown.

I am not aware of any such case, where the Government has granted substantial remission of land revenue, in the permanently settled areas, in the years of distress and famine on the conditions mentioned, in the first part of the question.

Yes, remissions of revenue are very rarely granted. The reasons set forth by the Government are that the distress is not sufficiently acute and that remission of land revenue would paralyse the normal administration of the Government. A more liberal policy may be followed.

Q. 72. The average yield and cost of cultivation per acre of staple food crops varies according to local conditions. No uniform average for all areas is possible.

If, however, any empirical average yield and cost of cultivation per acre of jute, paddy and sugarcane are to be given, I would give the following figures collected from the Government statistics:—

	Paddy.		Jute.		Sugarcane.	
	Rs.	a.	Rs.	a.	Rs.	a.
Yield price	36	6	73	0	228	0
Cost of cultivation	22	0	60	0	185	0

Q. 73. Yes, the absence of modern scientific methods, want of manure and fertilisers, all these factors set the law of diminishing returns in operation. The steps taken by Government for improving the methods of cultivation are inadequate and do not reach the countryside.

Q. 74. The Bengal Land Improvement Act does not provide for loans for redemption of old debts or for consolidation of holdings. The Acts mentioned in the question are not availed of because of the alleged out-of-pocket expenses involved in getting a loan sanctioned, the summary process of realisation and the very short-term instalments that are adopted, under these Acts. The provisions for improvement under the Bengal Development Act of 1935 are penal and have proved a failure. The estimate of the increased outturn is arbitrary and is probably based on the yield of the best land calculated at the highest rate of the produce. The irrigation projects in the Burdwan division will fail, unless the canal rates are reduced.

Q. 75. Yes, probably because the areas are now fully developed.

Q. 76. I have been informed that salami is realised by Government nowadays. I am not aware that any portion of the salami is utilised in improving the agricultural condition of those lands.

Q. 77. The late Mr. R. C. Dutt, I.C.S., sometime a member of the Board of Revenue, Bengal, held that over-assessment of the raiyats in the raiyatwari areas is a contributory cause of the distress of the agriculturists in those areas. The taxation on land, if increased any further, will only lead to the impoverishment and ruin of the people.

The Permanent Settlement is by no means the cause of the present uneconomic condition of the raiyats. The evils of low production, heavy indebtedness and excessive fragmentation of the holdings may be attributed to the antiquated modes of cultivation, want of manure, the laws of inheritance, want of thrifty habits, pressure of population on the land, paucity of alternative employments and chiefly to the abnormal fall in the price of staple food crops. According to some economists, the present *rate of exchange* which has increased the purchasing power of rupee, in foreign currency, tends to produce an adverse balance of trade by reducing exports and increasing imports.

The Permanent Settlement may have been responsible for some amount of sub-infeudation but that is not an unmixed evil. Unless the laws of inheritance are changed and the Bengal Tenancy Act of 1938 is amended, the establishment of economic holdings is only a dream.

Q. 78. Assuming an agricultural family to consist of 5 members, the Provincial Banking Enquiry Committee of 1929-30 estimated the average income of a raiyat (*a*) from his holding at Rs. 16 per annum, (*b*) from subsidiary occupation at Rs. 8-8 per annum.

The village life in India being very simple, the majority of the agriculturists, if they are thrifty and if they curtail the expenses on social and religious ceremonies, may maintain themselves and their family from the income of agriculture, provided the Government takes steps to *fix a minimum remunerative price* for the staple food crops.

Q. 79. Yes, I think it is satisfactory.

The method, in vogue, in the United Provinces may be tried provided it does not entail any additional cost on the persons interested in land. I do not think it will lead to any advantage.

Q. 80. This is a question which vitally interests the tenants and landlords alike. I have already dealt with some of the suggested methods in my answers to the previous questions. The methods mentioned in the question and a few others may be tried for improving the income of the agriculturists or the cultivating raiyats. I shall deal with the proposed methods, one by one.

Q. 80. (*i*) The law of diminishing returns operates on land more quickly unless cow-dung manures and fertilisers are applied to the fields properly. The use of cow-dung as a fuel is a wasteful practice and reduces the supply of manures. The possibilities of afforestation for increasing fuel supplies may be explored. The sweepings of the households may be thrown into pits and conserved for purposes of manure. The cultivation of leguminous crops, and the rotation of crops are also methods of improving the fertility of the soil.

The primitive plough may also be modernised. Dr. Clouston suggests that the M. S. N. Plough is only 34 lbs. in weight and can be drawn by a pair of bullocks. The agricultural officers are practically useless to the villagers as their knowledge and learning are confined to themselves and are reserved for submitting reports to the higher authorities. The villagers hardly get any benefit of the erudition and learning of the District Agricultural Officers.

(*ii*) Yes, the provision of subsidiary occupation for the agriculturists during the off season is very much desirable. Hand-spinning of yarn, weaving, construction of cane chairs and other handicrafts and cottage industries may be encouraged.

(*iii*) In Japan, rearing of silk worms is an important subsidiary rural industry. In France, Germany and Italy, dairy farming, rearing of pigs, poultry farming are important supplementary industries.

The sale of cocoanuts, betel-nuts and other fruits may be suggested. In Malda, Rajshahi, Birbhum and Murshidabad, seri-culture and cultivation of lac may be encouraged. The rearing of goats and sheep is a paying industry. In eastern Bengal, service as boatmen is, also, an important subsidiary occupation.

(*iv*) The development of collective or co-operative farms is a crying need. The co-operative societies have made very little headway in this direction. The co-operative credit system is extremely meagre and inadequate to meet the needs of the agriculturists. The establishment of co-operative farms may help the growth of economic holdings to some extent.

The absence of proper marketing facilities prevents the agriculturists from obtaining full value for his produce. A large proportion of the value of agricultural produce is intercepted by middlemen, who intervene between the agriculturists in the field and the consumers in large towns or cities. In order to eliminate or minimise the middleman's profit, it is necessary to improve the village roads and to link up the villages with big towns and important trade centres. Construction of central granaries, in every district, or subdivision for storage purposes may also be necessary. The urgent necessity is to construct motorable roads reaching up to the villages so that they may be in closer touch with the towns.

(*v*) The poor quality of Indian cattle was commented on by the Indian Agricultural Commission. There can be no doubt that the improvement of the breed of cattle is an urgent necessity. This again depends on an adequate supply of fodder. The available grazing fields are not sufficient for the purpose.

It appears, however, that out of a total cultivated area of 28·9 million acres of land in Bengal only about 6·1 million acres are cropped more than once. As an alternative method, it may be suggested that the 22·8 million acres of land which yield a single crop only and remain fallow for a number of months in the year may be utilised for the growth of fodder or any kind of pulses.

Otherwise provision of adequate fields is not possible.

The chief factor of the economic distress of raiyats, however, has been lost sight of. All other methods will fail unless *immediate steps* are taken to fix a minimum remunerative price for jute and the staple food crops, by imposing import duties on foreign imports, restricting the area under cultivation or otherwise. Unless this is done all schemes will end in theories only.

Q. 81. The pressure of population on land is no doubt one of the factors but I do not consider it to be the chief factor for the poverty of the agriculturists. I regret I cannot assess the percentage of population that is considered surplus in respect of the agricultural needs of the country.

As I have already explained above, low yield, heavy indebtedness, excessive fragmentation of holdings are the symptoms of a disease the causes of which are to be found in the paucity of alternative employments, the laws of inheritance, the attachment of the people to the soil and to agriculture which yields diminishing returns as years pass on, as also according to some economists to the present *rate of exchange* which tends to produce an adverse balance of trade.

Japan by her methods of intensive cultivation and improvement of agriculture can maintain comfortably 56 millions of people on a cultivated area of 17 millions of acre but in India a total cultivated area of 28·9 million acres of land is considered inadequate to maintain 34·2 millions of people who live on agriculture. It is a problem which economists and politicians may very well ponder over.

Poverty of the masses in India is appalling and the low *per capita* income of Indians is, also, no less striking. Lord Curzon in his budget speech calculated the average income per inhabitant of British India at Rs. 30 per annum. The Indian Statutory Commission reporting in May 1930 held that since the beginning of the century, the purchasing value of rupee had fallen by 100 per cent. and even at the most optimistic estimate the average income of Indians per head in 1922 was equivalent at the prevailing rate of exchange to less than £8 while the corresponding figure for Great Britain was £95.

Q. 82. The starting of Government-aided factories or joint-stock private or public companies may divert the surplus agricultural population to large industries.

Late marriages, birth restriction, emigration, intensive system of cultivation are the other suggested means for reducing the pressure of population on land.

Q. 83. Co-operative credit facilities are to be extended. The Government organisation for agricultural credit is extremely meagre and cannot meet the requirements.

The arbitrary activities of the Debt Conciliation Boards have dried up the little agricultural credit that was available in the villages. If creditors are harassed in the realisation of their good money and their legitimate demands decreed by civil courts are reduced or cancelled by the Debt Conciliation Boards, at their pleasure, no creditor in his senses will lend money to agriculturists again. It is true that the rates of interest charged by the village moneylenders and the various loan offices are sometimes very high and the interest rate varies on secured loans from 18¾ per cent. to 37½ per cent. and on unsecured loans the rate of interest is sometimes 300 per cent. according to the report of the Provincial Banking Enquiry Committee of 1929-30. But there is no help for it. Unless the Government sets up any alternative system of finance, providing loans on easier terms, reduction or cancellation of the existing debts will not solve the problem.

Q. 84. I have already dealt with this question in my answers to question 83. The estimate that 25 per cent. of the gross produce of agricultural lands goes to the mahajan may be correct.

But reduction or cancellation of debts will not induce creditors to lend money to agriculturists on easier terms. It will only drive capital away from agriculture to other profitable industries. There is no way of hope for the agriculturists unless the Government is in a position to set up an alternative form of agricultural finance. Reformers may talk with complacent benevolence on paper, but that will not help the raiyats, in any way.

Q. 85. The co-operative credit societies of Bengal have not touched the fringe of the colossal problem of agricultural indebtedness. The total agricultural debts of Bengal have been estimated at over Rs. 100 crores but the loans supplied by the co-operative societies amount to a little over Rs. 4½ crores only.

If 6¼ per cent. per annum be considered a fair rate of interest for arrears of rent, I do not see why the co-operative village societies should be allowed to charge 12½ per cent. interest on long-term loans and rupees 9/6 per cent. on short-term loans. This rate of interest must be reduced to make the society more popular. The reasons why these

societies are not popular are that the rate of interest is high, agriculturists generally have no valuable security to offer and solvent agriculturists are naturally unwilling to join hands with their insolvent brethren.

I have calculated that only about ·85 per cent. of the agriculturists are members of the co-operative societies. The Burdwan district figures show that no co-operative society has, so far, succeeded in wiping out the debts of its members. The percentage is almost nil.

Q. 86. No law, which is unduly severe to one class of people can, in the long run, benefit the other class for whose welfare it is intended. Interests of creditors and debtors alike should have been equally safeguarded by any Act which intended to improve agricultural credit. But, any reasonable consideration for the interests of the landlords and creditors is only conspicuous by its absence in the Bengal Agricultural Debtors Act of 1935. I cannot but admire the destructive genius of the framers of this Act who have spared no pains to dry up agricultural credit, altogether, and to push on the agriculturists to the verge of starvation and ruin.

This Act, I am sure, will complete the progressive pauperisation of the agricultural community. Section 15 of the Bengal Agricultural Debtors Act seems to imply that the object of this short-sighted Act is to help amicable settlement of debts, but it is only an eyewash. A cursory glance at section 21 of the Act would convince any unbiassed critic that the Debt Boards have been armed with very large and arbitrary powers to force their awards, however unfair, on the unwilling landlords and creditors. The Bengal Agricultural Debtors Amendment Bill of 1939 aims at tightening the noose round the necks of the landlords and the creditors. If this bill is passed into law, it will be impossible for the landlords and creditors to carry on their business.

The definitions of "agriculture" and "debtor" under the Act are so delightfully vague that anybody and everybody, whatever his profession or income from other sources, may take shelter under the Act, if he so chooses. So far as I know, the Debt Boards, ordinary or special, have been very liberal in the interpretation of the term "debtor" and they have entertained applications from persons whose income from other sources is a considerable amount. It is desirable to amend the definition of the term "debtor" so as to exclude non-agriculturists. Orders under section 20 of the Act should also be made liable to be set aside on appeals to the civil courts. Provisions for appeals or revision applications to the Subdivisional Officers have proved to be practically useless.

Section 8 of the Act fixes the jurisdictions of these applications with the Boards established within the local jurisdiction of the debtors' residence. This causes very great hardship to the creditors and landlords as they have to send numerous agents to different outlying places to attend to these cases. I think this section ought to be amended so as to fix the jurisdiction of applications under the Act within the local jurisdictions of the holdings concerned or places where monetary transactions are completed.

Section 32 of the Act only provides for stay of proceedings before the Debt Boards but does not fix any *time limit* for the debtor to apply to the civil court for setting aside the *ex parte* decree, so that the landlord or the creditor is left without any relief so long as the debtor chooses to do nothing, in the matter. A time limit of 30 days should be made for such applications, failing which the applications shall stand dismissed under section 17 of the Act.

The powers given to the Debt Boards under section 19 of the Act to settle debts irrespective of the decrees of the civil courts are arbitrary and liable to be abused. These powers should be withdrawn.

The imposition of double court-fees under rules 136 and 139 of the Bengal Agricultural Debtors Act are productive of extreme hardship to the landlords who have already paid court-fees in the civil courts. These rules should be withdrawn or cancelled.

Landlords are not jugglers. They cannot produce something out of nothing. If the landlords are to receive rents from the raiyats in 10 or 20 years according to the awards of the Debt Boards it is perhaps too much to expect that the landlords would be able to meet their revenue engagements punctually, every three months, and to pay the pattani rents to the superior landlords, every six months. It is asking them to do an impossible thing. It looks like drawing water from a tank of which the source of supply has been shut up. The Act has no doubt been fashioned, with great care, as a contrivance to devise the shortest cut to the ruin and extermination of the landlords.

If a business man has been imprudent enough to supply any building materials to a so-called agriculturist, he may find, one fine morning, that his bill for materials has been cut down by half and that he has been asked to receive the other half in 20 years instalments by the wise judges of the Debt Settlement Boards. It does not matter whether the business man had to wind up his business or seek relief in the Insolvency Court. That concerns nobody. The agriculturist is saved. That is all.

I shall conclude my remarks with a quotation from the Durbar speech of Mr. H. P. V. Townend, C.I.E., I.C.S., the Commissioner of

the Burdwan Division, who was constrained to set forth some of the abuses of the Act, in the interest of justice and public good.

"There are tendencies," says he, "developing which threaten to lose more ground than work for village uplift can possibly gain. These tendencies are two in number—and they are symptoms of one disease which, at bottom, is nothing more or less than *dishonesty*—a tendency to defraud landholders by withholding rent and a tendency to defraud creditors by withholding payment of debts."

"I need hardly say that the tendency to defraud is bound up with the working of the Agricultural Debtors Act. A great part of the troubles of the creditors is due to the two facts that proceedings in the civil courts are stayed until applications have been disposed of and that applications have been coming in faster than Boards could be formed to deal with them. For this the debtors are not responsible. But many applications have come from people whose chief object is to *delay payment* and who have no real intention of settling their debts. These debtors behave as if the main object of the Act was to delay payment, but its object was to make it easy for debtors and creditors after amicable discussion to settle terms."

* * * * *

"It provides that the applications of those who seek to make dishonest use of its provisions should be dismissed and steps will be taken to see that this is done."

"But apart from this, attempts to misuse the Acts are recoiling on the heads of borrowers generally."

"Two things are certain: one that the Government cannot possibly undertake to finance all the cultivators and the other that *dishonest tactics* will be an obstacle to the setting up of any alternative form of finance through co-operative societies or mortgage banks."

Mr. Townend also pointed out the *widespread nature* of the *tendency to withhold payment of rent*. His comments on the causes of such tendency are also instructive. He says—"It is interesting to speculate why this tendency to refuse rents has grown up. Undoubtedly it has its origin in the irresponsible electioneering speeches made by candidates of all parties, who sought election to the Legislature early last year. To get the cultivators' votes they spoke as if the *interest of the* cultivators *alone* would be considered in future. There was a talk of abolition of the Permanent Settlement, which was understood to mean the abolition of all tenures, and everything possible was done to *arouse discontent* and to *inflate expectations*."

* * * * * * * *

"Even from the point of view of the most drastic of reformers, mere refusal to pay rent is an *impossible policy*. However bad in their opinion the existing system is, it is only common sense to adhere to it until a new system has been evolved to take its place. The alternative would be *anarchy* which no Government could tolerate. For the present the rents are legally payable and must be paid."

The learned Commissioner has thought it fit to sound this note of warning to stop the abuses of the Act.

As doubts have arisen as to whether the costs incurred by a landlord or a creditor, in a pending suit in the civil court would come under the definition of "debt" under section 2, sub-section 8 of the Act, it is desirable that this section should be so amended as to eliminate the ambiguity and to include, specifically, the costs incurred by the landlord or the creditor in a pending suit. These court costs should not be subjected to reduction or cancellation, at the pleasure of the Debt Boards. Unless directions are issued to include the full court costs in the settlement of debts under section 19 or awards under section 25 of the Act, the landlords and creditors would be penalised for no fault of theirs, as they had instituted suits to save limitation before they had any notice of the filing of applications by the debtors, in the Debt Settlement Boards.

Q. 87. Yes, it is a good suggestion. Government Agricultural Banks may be useful and of great help to agriculturists if loans are advanced in times of need on easy terms. Only short-term loans will not be sufficient. Long-term loans will also have to be provided for.

Land mortgage banks of the co-operative type may perhaps be more suitable, and those banks may be grafted on to the existing Central Co-operative Banks. The Central Co-operative Banks may be authorised to finance these mortgage banks by floating debentures at 5 per cent. per annum or the Government may subsidise these mortgage banks by cash credit, on easy terms.

Q. 88. The land mortgage banks are very few in number and are unable to cope with the colossal problem of agricultural indebtedness. There must be many more such land mortgage banks providing long-term loans on cheaper terms.

In case of town co-operative or land mortgage banks, where loans are advanced against valuable securities, movable or immovable, joint liability and personal securities should be dispensed with to make these banks popular. Otherwise, private moneylenders and other joint stock banks will capture the business, as they advance loans on these terms.

Q. 89. Yes, the Bengal Tenancy Amendment Act of 1938 and the Bengal Agricultural Debtors Act of 1935 have made the procedure for realisation of rents more costly and still more cumbrous as I have already explained in my answers to question 86. Practically there is no course open now to the private landlords for prompt realisation of rents.

If there is any real intention anywhere, to treat the landlords sympathetically or to help them in any way in the realisation of their dues, "rents" and "rent-decrees" must *at once* be taken away from the purview of the Bengal Agricultural Debtors Act and the certificate procedure for realisation of arrears of rent should be restored to the landlords.

The machinery now available for realisation of rents is unnecessarily harassing and expensive to the landlords and not to the tenants.

Q. 90. Not necessarily, unless it is used in times of distress or in seasons when there is no harvest.

My humble suggestion for speedy recovery of rents is that the Debt Settlement Boards be debarred from settling claims on account of arrears of rent or rent decrees or decrees for shares of the produce, which should be tried by the civil courts only and the civil courts may be directed to expedite these matters. The interest on arrears of rent or cesses under the Public Demands Recovery Act should be reduced to 6¼ per cent. on the lines of the Bengal Tenancy Amendment Act of 1938.

In this connection, I may quote an extract from a letter of the Collector of Midnapore, dated the 12th February 1802, which will throw lurid light on the events that followed after 1793....."The system of sales and attachments has in the course of a few years reduced most of the great zamindars of Bengal to *distress* and *beggary* and produced a greater change in the landed property of Bengal than has ever happened, in the same space of time in any age or country, by the mere effect of internal Regulations. It was notorious that many of them had large arrears of rent due to them which they were utterly unable to recover while Government were selling their estates for arrears of assessment."

These significant words have proved only too true, in the sequence of events that followed.

Q. 91. I do not support the repeal of the Bengal Regulations and earlier Acts and replacement of them by a new Act.

Q. 92. Yes, the Revenue Sale Law operates harshly on the zamindars. I beg to suggest that the Revenue Sale Law be amended so as to make the sales liable to be set aside on deposit of arrears and

costs within 60 days and the penalty on arrears be reduced to 6¼ per cent. at the maximum.

Where a separate account has been ordered by the Collector, and the holder of the separate account has deposited his share of dues, the sale of the residuary estate may be made *free from encumbrances,* as under section 37. If the section is amended in this manner, the sale will fetch a greater value and the putnidars will not be able to defraud the zamindar by buying a small share in the zamindari and withholding payment of rent.

Q. 93. The Bengal Tenancy Amendment Act of 1938 will tell adversely on the landlords and tenants alike. It is a device to benefit a class of statutory raiyats who have ceased to be actual tillers of the soil and are in the nature of tenureholders.

Section 86A of the Bengal Tenancy Act of 1938 provides for abatement of rent on account of diluvion in the case of raiyats but there is no such provision for abatement of putni rent or revenue in the case of putnidars or zamindars. The repeal of sections 26D and 26E of the Bengal Tenancy Act of 1928 and amendment of section 88 of the Bengal Tenancy Act have facilitated the easy transfer of holdings to non-agriculturists and helped still further fragmentation. It has made the realisation of subdivided rents through civil courts unremunerative.

The amendment of section 26G of the Bengal Tenancy Act of 1928 has resulted in the expropriation of the village moneylenders and has made rural credit illusory.

The loss to the landlords' income on account of the abolition of the landlords' fees may according to the Government statistics be estimated at 36·74 lakhs per annum on an average of the last 8 years upto 1936-37.

Reply by the Chittagong Landholders' Association.

Q. 1. No.

Q. 2. No.

Q. 3. (*a*) Done a great deal.

(*b*) No.

(*c*) Does not arise.

Q. 4. Prior to Permanent Settlement they were the actual proprietors of the lands. After that their proprietorship has been confirmed by the Permanent Settlement.

Q. 5. (*a*) Yes.

(*b*) No.

Q. 6. Has been fulfilled, as was expected.

(*i*) ¼.

(*ii*) ¼.

(*iii*) ½.

Q. 7. (*i*) ¼.

(*ii*) ¼.

(*iii*) ½.

Q. 8. (*a*) Yes.

(*b*) Does not arise.

Q. 9. (*a*) ½.

(*b*) No.

(*c*) Chittagong zamindars are in close touch with their tenants.

Q. 10. (*a*) Yes.

(*b*) No.

Q. 11. (*i*) No. This criticism is not justifiable.

Q. 12. No. Its abolition cannot be advocated on any of the grounds.

Q. 13. This argument is entirely fallacious.

Q. 14. Does not arise.

Q. 15. Does not arise.

Q. 16. Social structure will collapse into lawlessness.

Q. 17. No.

Q. 18. Expenditure will exceed the income.

Q. 19. No. The raiyats do not like the idea of being under khas mahal, as the khas mahal has become very oppressive and unaccommodating.

Q. 20. No.

Q. 21. Most disastrous effect will ensue.

Q. 22. (*a*) Possession of homestead and khas lands should be retained by them.

(*b*) 25 times the gross income.

Q. 23. See record.

(*b*) Does not arise.

Q. 24. (*a*) No.

Q. 25. (*a*) Yes.

(*b*) No.

(*c*) No.

Q. 26. Does not arise.

Q. 27. Yes.

Q. 28. No.

Q. 29. (*a*) Yes.

(*b*) Increase in population.

Q. 30. No.

Q. 31. (*a*) Approximately Rs. 12½.

(*b*) Yes.

Q. 32. (*a*) No.

(*b*) They may be well protected by allowing them to cultivate their own raiyati lands and of others as Bargadars and also working as labourers.

Q. 33. (*a*) Yes.

(*b*) Does not arise.

Q. 34. Yes.

Q. 35. (*a*) According to the contract fitting the circumstances.

(*b*) No.

Q. 36. (*a*) From 4 annas to 10 annas per head.

(*b*) Worse.

Q. 37. (*a*) Yes.

(*b*) Yes.

(*c*) No.

(*d*) No. That will not fetch proper value.

(ex. 1.) No.

(ex. 2.) Present system is all right.

Q. 38. 6 acres.

Q. 39. (*a*) Yes.

(*b*) Yes.

Q. 40. Desirable, by legislation.

Q. 41. Facilities as far as practicable may be allowed.

Q. 42. Accumulation of large areas is desirable according to the circumstances.

Q. 43. No.

Q. 44. By common management such as Court of Wards and common manager or by limited company.

Q. 45. Yes.

Q. 46. Yes.

Q. 47. No.

Q. 48. X.

Q. 49 X.

Q. 50 It was not a mistake.

Q. 51. No.

Q. 52. The existing system is all right.

Q. 53. (*i*) Higher rents have to be paid in the Government estates than the permanently settled estates.

(*ii*) No.

Q. 54. No. In view of the answer to question No. 53 this does not arise.

Q. 55. (*a*) No.

(*b*) According to the productivity of lands.

(*c*) Yes.

Q. 56. A uniform share for universal adoption cannot be recommended.

Q. 57. The rates of rent should be re-examined every 30 years.

Q. 58 No.

Q. 59. We do not consider it defective.

Q. 60. No.

Q. 61. No.

Q. 62. Yes.

Q. 63. Existing provisions of law are sufficient.

Q. 64. No.

Q. 65. (1) No such objectionable defects.

(2) Yes.

Q. 66. (1) No.

(2) Does not arise.

Q. 67. Yes.

Q. 68. Noabad taluk Chota Sanua, police-station Banskhali, in the district of Chittagong, and many others.

Q. 69. Yes.

Q. 70. In khas mahals, Settlement Officers have always looked at enhancement and have always been reluctant to reduce rents. Where there has been no opposition, enhancement has been easily effected. Whereas in the case of opposition or objection from tenantry small enhancement has resulted. Hence the variation.

Q. 71. (*a*) Partially true.

(*b*) In permanently settled areas tenants pay lower rents than those of khas mahals. In khas mahals the affected areas are not properly reported as the reporting officers do not dare to submit correct report for fear of Government revenue being reduced.

(*c*) If considerate higher authorities personally enquire.

Q. 72. Paddy—Yield Rs. 30, cost Rs. 20.

Sugarcane—Yield Rs. 90, cost Rs. 60.

Q. 73. (*i*) Yes.

(*ii*) Want of manure.

(*iii*) Nominal step only.

Q. 74. Public are not aware of the advantage of these Acts.

Q. 75. We are not aware of any such expenditure for improvement of agriculture.

Q. 76. (*i*) Yes.

(*ii*) At least for the last 30 years.

(*iii*) No.

Q. 77. Government policy is mostly responsible. Lowering the cost of administration.

Q. 78. (*a*) and (*b*), cannot be definitely said ·20 per cent.

Q. 79. (*i*) Present system is not satisfactory.

(*ii*) Classification of land is essentially necessary. It should be made in conformity with C. S. survey in some respects, i.e., khewat and boundaries of lands and name of estates in every khatian. Land records should be maintained in respective unions.

Q. 80. (*i*) Yes.

(*ii*) Yes.

(*iii*) Yes.

(*iv*) Both systems satisfactory but collective preferable.

(*v*) Yes.

Q. 81. (*i*) Yes.

(*ii*) 40 per cent.

Q. 82. Yes. Industries both large and minor.

Q. 83. (*i*) Introduction of interest-free and easy agricultural loan.

(*ii*) No.

Q. 84. (*i*) Yes.

(*ii*) Government should come forward with interest-free loans.

Q. 85. (*i*) Not at all.

(*ii*) Too high.

(*iii*) No.

(*iv*) Co-operative societies have supplanted mahajans.

Q. 86. (*i*) To some extent.

(*ii*) Defects—

(*a*) Agriculturists' credit market tight.

(*b*) Definition of debtor should be strictly narrowed. Rent should be excluded, etc.

Q. 87. Yes.

Q. 88. Divisional land mortgage bank should have their branches in every subdivision and also in additional subdivision.

Q. 89. (*a*) Yes.

(*b*) Yes.

(*c*) Introduction of such machinery for prompt realization with least expense, i.e., Patni Sale Act.

Q. 90. No. Recovery through Public Demands Recovery Act is less expensive than through civil court; beneficial for the tenants. As in 89 (*c*) above.

Q. 91. (*i*) Advisable.

(*ii*) No.

Q. 92. (*i*) Sunset Law (Act XI of 1859) to be amended; provision should be made for depositing sale-money within 30 days and sale should be stayed. Also mode of realization in respect of co-sharer dues.

Q. 93. (*i*) Zamindars and tenureholders are hard hit by Bengal Tenancy Amendment Act of 1938.

(*ii*) No definite estimate can be given.

Reply by the Dinajpur Landholders' Association.

Q. 2. The Permanent Settlement is silent with regard to the right of the tenant to transfer his holding. But the Permanent Settlement made the zamindar the proprietor of the soil and from the English idea of proprietorship, the holding became inalienable without the consent of the landlord. And this gave the zamindar the right to choose his tenant whenever there was a transfer. But this right has been scarcely exercised by the landlords, unless the transferee refused to pay the salami for mutation.

Q. 3. The landlords played an important part in the economic development of the country. Being assured of a fixed demand from Government they have tried to increase their income by bringing more lands under cultivation, in which they have succeeded. Due to the Parmanent Settlement they could amass some wealth which they have spent in fostering art, education and industry. Many religious and charitable institutions have been supported by them.

The landlords have not failed to perform their duties imposed upon them by the Permanent Settlement. They conducted themselves with moderation towards their tenants. The enhancement of rent in the permanently settled areas has not been so high as that in the temporarily settled areas or khas mahals. The tenants in permanently settled areas are happier than those under the khas mahals. (*Vide* Statement No. IX, Circular No. 3, Land Revenue Commission.)

It may be argued, then, why subsequent tenancy legislations were necessary. The subsequent tenancy legislations were required not so much to check the oppression of the zamindars, as to meet the growing demands of the tenants for better rights and to clarify many doubtful points. This is evident from the fact that such tenancy legislations have been necessary not for the tenants of the permanently settled area only but for tenants in all the provinces. Such legislations were not called forth by the immoderation of the Bengal zamindars.

Q. 4. It seems, that before the Permanent Settlement the zamindars were not proprietors of the soil but were collectors of rent. This may be evident from the fact that they could not transfer their zamindari without the consent of the King or his agent. But then there were such wide powers in the hands of the zamindars of the pre-British days, that they could do anything with their raiyats in the name of realisation of rent. Their only protection was in the village custom which the zamindars scarcely overrode.

Q. 5. The annulment of the Permanent Settlement will surely be a breach of a solemn pledge given by the East India Company. Regulation I of 1793, Article VI, lays down "orders fixing the amount of the

assessment irrevocable", and Regulation VIII of 1793, Article 62, lays down, "neither their rights nor the value of their property can be affected in future by the real produce of their estates being known". The agitation against the Permanent Settlement began from the beginning of the 19th Century. Those who were against the Permanent Settlement argued that the Permanent Settlement has permanently crippled the financial resources of Bengal and they did not like that it should be extended to other provinces. But none of those high English Officials ever said that the pledge given by the East India Company should be broken, because they knew that it would be a breach of a solemn pledge.

But now because due to the recent settlement operations Government has come to know of the large profit of the zamindars and also because the Government is now carried on by the people of this country who perhaps think that their honour is not so much involved by the breach of a pledge given by Englishmen, they turn their eyes to the increased profit of the zamindars in direct contravention of the principle laid down in Regulation VIII of 1793. And those honourable Englishmen who are in the helm of affairs perhaps will see with satisfaction the much desired undoing of the Permanent Settlement by the autonomous Government.

Q. 6. Yes, zamindars helped in the extension of cultivation and no doubt they have so long enjoyed the fruit of this extension of cultivation.

The extension of cultivation has been possible with all the factors enumerated in the question acting together.

Q. 7. In the district of Dinajpur even now in the average the revenue is about 50 per cent. of the gross rental. The assessment at the time of the Permanent Settlement was so high and waste and unclaimed land so little that even after 150 years the zamindar has not been able to bring down the level of revenue to less than 50 per cent. of the gross rental. The rental in this district has not on the average been increased by more than 6 annas in the rupee in these long years. The increase of rental due to reclamation of waste lands has not been very great, as the proportion of land to be reclaimed was very small.

The last cess revaluation in this district was most arbitrarily done and only to increase the revenue of District Board a high valuation was settled. The total cess in the last revaluation has been doubled.

The condition in other districts may be different of which we have no knowledge.

Q. 8. The answer to question 3 deals with this question.

Q. 9. The zamindars fulfilled the obligations imposed on them by the Permanent Settlement. Now a cry has been raised that many of the ills of the tenants are due to absenteeism of the landlords. This is a false cry. The proportion of landlords who have permanently shifted to the town is small compared to the number who still reside in the mofussal. But certainly there has been a tendency to move to the town. This is the effect of modern civilisation where all middle class men and even tillers' sons after getting some education flock to the town. The zamindars find it more and more difficult to live in the village without any society. Then it is not clearly known what is meant by absenteeism. A landlord having an extensive zamindari cannot possibly be present everywhere and listen to grievances of tenants personally. It has to be done through officers. The Government is also run by officers. The District Collector does not go from village to vilage.

Then there are persons who were not originally zamindars but who carried on moneylending business and other business in the town and incidentally acquired zamindaris. Even Englishmen and Marwaris came to possess zamindaris in this way. Some of them are not even permanent residents of this province. Then how can it be expected that as soon as they acquired zamindari they will come away from their home and live in a Bengal village. Though absenteeism has its defects, the general cry against absenteeism is raised only "to give the dog a bad name" in order to hang it.

Q. 10. The Permanent Settlement was in the interest of those foreign conquerors who made it. At that time they were in need of assured regular payments of money for extending their conquests in the neighbouring provinces. They also needed the loyal support of the zamindars at that time, so they fixed the revenue permanently, though they fixed it as high as possible at that time. But after the British Government was firmly established in India they began to regard the Permanent Settlement as a mistake from their experience in other provinces. Of course now it has become an advantage to the landlords at the expense of the State but certainly not at the expense of the tenants. Had there been no Permanent Settlement they would have to pay higher rent.

Q. 11. (*i*) Though it is not 80 per cent. of the income, still a large part of it is appropriated by the zamindars. In the district of Dinajpur it was never more than 35 per cent.

(*ii*) Wherever there is a bigger margin of profit between the gross rental and the revenue, subinfeudation comes in. Subinfeudation is less where the margin of profit is less.

(*iii*) Subinfeudation has little influence over enhancement of rent. All subinfeudations are made on the basis of the rent paid by the raiyats. The tenureholders cannot do anything which the zamindars could not do. Subinfeudation acts harshly only in case of under-raiyats.

(*iv*) The overlordship created by the Permanent Settlement is not more harassing and oppressive than the Government landlordism.

Q. 12. The Permanent Settlement can be abolished only on one ground and that is the increase of the Government revenue.

Q. 13. The abolition of the Permanent Settlement or the substitution of temporary settlement in its place will upset the social balance of Bengal and will increase the hardship of the tenants. So these two methods cannot be advocated.

Tax on agricultural income seems to be the best of the three methods.

Q. 14 and 15. If Permanent Settlement be abolished, the zamindars should be given compensation equal to twenty times the net profit of the zamindars.

The net profit=Gross rental—(Government revenue+12 per cent. of the gross rental).

The compensation should be given in irredeemable and irrepudiatable bonds carrying interest at 3½ per cent. per annum free of income tax.

Q. 16. The middle class of Bengal has originated from the land system of Bengal and all the culture and progress of Bengal has been due to this middle class. If this land system be abolished by State purchase of zamindaris, there will be serious unemployment and the present middle class will be ruined till a new industrial middle class comes into existence at some distant future.

Q. 17. If the zamindari system be abolished then as a matter of principle, all the middlemen between the cultivating raiyat and the Government should also be abolished. It will have the advantage of raising the Government revenue to the maximum limit. It will also have the advantage of bringing the general mass face to face with the Government. So that all the grievances and disaffection of the general mass will be directed against the Government and this will lead to rapid transformation of the Government according to the will of the people.

Q. 19. The raiyats will not prefer to come directly under Government. Because they know that they can appeal against the oppression of the zamindar to the Government. Also the zamindar is too weak to resist the organised actions of the tenants. But against the oppression of the all powerful Government they know not whom to appeal

to. Khas mahal tenants are worse off than tenants under private landlords.

Q. 20. Subinfeudation does not affect the position of the raiyats economically and socially. His position remains the same whether there be subinfeudation or not. His immediate superior landlord cannot do anything which the zamindar could not do, and he has to deal with none but his immediate superior landlord.

Q. 27. If occupancy rights be not given to non-agriculturists, it will extinguish the rights of the middle class at one stroke of the pen.

Q. 29. Bargadars and adhiars seem to be on the increase. The reason for this is the passing of the land of poorer cultivators to richer cultivators and mahajans owing to increasing poverty of the cultivators. There is another ground for the increase of adhiars. Due to depreciated value of crops in recent years, the middle class men find it more profitable to let out lands in adhi than to cultivate it by hired men. Cultivation by paid servants is scarcely profitable nowadays. Increase of cultivating population is also another ground for the increase of adhiars.

Q. 30. This question has been dealt within the reply to question 29.

Q. 32. The bargadar should not have the right of occupancy. But his share of the produce in no case should be less than half the produce.

Q. 33. Barga system is not economically unsound. With a pair of bullocks at Rs. 40 a cultivator can earn by bhagchash at least Rs. 50 per annum. He can use the same pair of bullocks for at least 3 years. The bullocks' fodder also he has from his land. That barga system is more economic than service is seen every day. A labourer whenever he has the possibility of securing a pair of bullocks, leaves his service which gave him Rs. 60 to Rs. 70 per annum, and takes some land on adhi system. Moreover he can keep a cart and earn Rs. 30 or Rs. 40 by hiring it out.

Q. 34. There is likelihood of bargadars being thrown out of employment as the effect of giving occupancy right to them.

Q. 35. Replied in answer to question 32.

Q. 36. Wages of agricultural labourers was about Rs. 100 per annum without fooding and Rs. 60 with fooding before the depression. Now it has come down to Rs. 70 and Rs. 40 respectively. Bargadars and under-raiyats are in a better position than the wage-earners. Bargadars may engage themselves in other pursuits during the off seasons.

Q. 37. There was no restriction on transfer of holdings at any time. Rather the Act of 1929 put some restrictions on transfer when nazarana had to be paid at the time of registration. The transfer of lands has always been due to impoverishment of the cultivators. Restriction of transfer of land to non-agriculturists will lead the cultivators to great financial difficulties without any gain to the poor cultivator.

Q. 38. The minimum size of raiyati holdings should not be less than 10 bighas, i.e., the least area which a cultivator can till with one plough.

Q. 39. Many present day holdings are uneconomic.

Q. 40. Though consolidation of holdings is desirable it is not practicable.

Q. 46. The Permanent Settlement did not contemplate non-enhancement of rent. It allowed landlords to increase their income by all means within legal limits. The subsequent Rent Acts have also recognised the right of the landlord to enhance the rent. Only Section 50 of the Bengal Tenancy Act, which came into existence nearly hundred years after the Permanent Settlement, lays down that rents which have not been enhanced after the Permanent Settlement will not be enhanced after 1885. It does not lay down that all enhancements subsequent to the Permanent Settlement are illegal. Thus it recognised the right of the landlords to enhance rent. It simply laid down that the rents which have not been enhanced during one hundred years should be regarded as fixed.

Q. 47. The Permanent Settlement never contemplated fixity of rent. It simply fixed the revenue which was the greatest concern of the Government. Moreover they fixed the revenue so high only in the hope that the zamindars will be able to discharge their obligations by increasing their income by extension of cultivation and enhancement of rent. The Permanent Settlement enjoins the zamindars to conduct themselves with moderation towards the tenants and the Government kept the power in its hands to frame Acts for the protection of raiyats. Had there been any intention to fix the rent that point would have been clearly laid down. The Government gives some latitude to the zamindars to deal with tenants but the ultimate authority is in its hands for the protection of the tenants.

Q. 48. Answer to this question has been given under questions 46 and 47.

Q. 49. It is quite impracticable to reduce the rent to the rate prevailing at the time of the Permanent Settlement. The rent cannot be traced back. The rents should rise and fall with the rise and fall of the price of the produce.

Q. 52. The rent of an agricultural holding, to be fair and equitable, must be on the basis of the price of the produce of the land. The price of the land depends upon many factors. One main reason is dearth of land compared to the population. Whatever may be the price of an agricultural holding it can never be economic to the actual cultivator if the rent be high compared to the yield. High price of land may be advantageous to a non-agriculturist who may agree to pay high rent in the hope of making a profit by resale of the land. But a cultivator does not want to convert the land into ready money. He is concerned only with the yield of the land. The rent should be a definite share of the gross produce and should not be more than $\frac{1}{8}$th of such produce.

Q. 53. The rents are fixed according to custom and on consideration of the yield of the land. Custom is the greatest factor. Sometimes competition also comes in. Rent does not vary greatly in the same locality for similar kinds of land.

Q. 54. It is not true that weaker and poorer tenants pay higher rents. Sometimes those persons who render service to the zamindar pay slightly lower rent than others.

Q. 56. Cash equivalent of $\frac{1}{8}$th of the gross produce.

Q. 57. If the Permanent Settlement be abolished, the rent should not be fixed in perpetuity but should be alterable with the rise and fall of the price of the produce and not according to the needs of the State. The poor tenants should not be compelled to pay a higher rent according to the needs of the State. Besides rent, they should not be made to pay any other taxes by whatever name they may be called. The rates of rent may be examined every 20 years.

Q. 58. If the Permanent Settlement is abolished, in all fairness to the agriculturists income tax on agricultural profit should be substituted in place of rent. In levying rents from agriculturists, the State does not deal fairly and equally with all its subjects. The State can claim taxes from its subjects only on the ground of protection of person and property of its subjects. All subjects are equal in the eye of the State. Then why is it that a subject having a net profit of Rs. 1,900 has to pay nothing to the State in lieu of the protection it affords to him whereas a poor cultivator having 5 bighas of land and a profit of Rs. 25 per annum is made to pay a tax of Rs. 4 in the shape of rent.

By substitution of tax on agricultural profits many poor tenants will be exempted from payment of tax. But they ought to be exempted. The Government may bring down the level of the assessable income to compensate the loss of revenue. The Government should treat all its subjects equally. It is no good torturing the poorest of the poor for filling the Government coffer.

Q. 73. Productivity of the soil in Bengal seems to be on the decrease. One reason is the irregularity of the rains and want of irrigation in Bengal. Of late years there is no timely rains. Government has done nothing in improving the fertility of the soil. Distribution of manures and seeds is practically nil.

Q. 74. Most of the people and even the educated jotedars do not know anything about the Acts mentioned in the question and the advantages they can afford.

Q. 77. The uneconomic condition and the gradually increasing debt of the raiyat is mainly due to three factors:—

(*i*) Destruction of cottage industries and the consequent pressure on land. In this machine age, cottage industries cannot compete with the machines and soon die out. The people living on such industries have to fall on land for their subsistence. And thus pressure on land is ever increasing.

(*ii*) The pressure on land is also brought by increase of population.

(*iii*) The most important factor is the general rise in the standard of living. Formerly the necessities of life were very few. Now the machine with the help of science is turning out daily new necessities of life. And in the name of trade the products of the factories are carried into the remotest corner of the country and sold to the cultivators. The cultivator has only one source of income, i.e., the yield of his land. He has to purchase all articles of life out of this yield. What few necessities the cultivator had previously, he could meet from his meagre income. Now his necessities have been increased several times and even if his land remains the same, he cannot meet the demand of the higher standard of living. Consequently he has to run into debt. Non-agricultural middle class men also with their increased income find it difficult to meet the demand of the higher standard of living and they also run into debts. Thus the zamindars, middle class men and the poorer men are steeped into debt nowadays. Only the agents of the foreign exploiters, i.e., the traders and the manufacturers are flourishing at the expense of the general public. Had these manufacturers been natives of the soil, they would have to spend at least a big part of their profit in this country and the general public would have been benefited by this. But we are at the mercy of foreign exploiters who are continuously draining India. Unless this drain be stopped and unless means are devised to return to the consumer in some shape or other the profit made by the manufacturer, the cycle of consumption and production must stop. If the drain be only in one direction, the consumer will soon lose his purchasing capacity.

The Government's policy of free trade is responsible for such a state of affair. The land system of Bengal has very little to do with

the poverty of the tenants. It seems even if the tenants be allowed to enjoy their lands free of rent they cannot keep themselves out of debt for the demand of the higher standard of living is ever increasing. There are so many bare necessities nowadays that everybody thinks that he has not the barest necessities.

Q. 80. (*i*) The cultivator's income may be increased by improved method of cultivation. There should be Government agricultural farms in every union to demonstrate these improved methods to the cultivators. The officer in charge of the agricultural farm should not be a salaried man. He must be a man who can maintain himself out of the profit of the farm. Of course the capital and land will have to be advanced to him by the Government. This will demonstrate that by improved methods of agriculture, it is possible for a man to live decently.

(*ii*) It is impracticable on the part of the Government to supply occupation to the cultivators during slack season.

(*iii*) No cottage industry can thrive unless competition by mills be stopped. Spinning and weaving has gone long ago. Vain has been the attempt of Mr. Gandhi to revive the charkha. The village oil man and paddy huskers are also soon going out of existence. Now we get cutleries from factories. It may be that the aluminium and china clay potteries will soon drive out the village potter. What then remains? The land only.

Q. 82. The pressure on land may to a large extent be removed by starting large industries by Government. It will also have the additional benefit of saving the people from foreign exploitation. This point has been dealt with in the answer to question 77.

Q. 83. Due to the operation of the Debt Settlement Boards, the agricultural credit has come to a standstill. There was no Government agricultural credit system. Private credit system was supplying all the needs of the agriculturists and this can still be revived with sufficient checks with regard to interest to the advantage of the agriculturists as well as middle class men. Government credit system will be against the interest of the debtors as it acts very harshly at the time of realisation.

Q. 84. The drain will continue, only the Government can divert the drain to its own coffer by establishing Government credit system.

Q. 85. The co-operative credit system has done very little in the district of Dinajpur. The joint liability and the harshness of realisation is not liked by the debtors.

Q. 86. The Debt Settlement Boards have removed the pressure of the creditors and saved many debtors from ruin at least for the time

being. But it is feared that most of the debtors cannot pay off even the reduced instalments. The Debt Settlement Boards are operating under a lawless law having no regard to the interest of the creditors. They are moreover conducted by men who have neither intelligence nor any legal knowledge. It would be better if the Chairman of the Debt Settlement Boards be paid officers of Government with some legal knowledge or the Boards' works may be done by the Munsiffs.

Q. 87. Unless private credit system be abolished Government agricultural banks may not flourish.

Q. 89. Landlords never file rent suits unless their claim is going to be time barred. Landlords regard rent suits as a necessary evil. They will be glad if rents can be realised without going to law courts. The suits are always expensive and dilatorious. Though the suits are expensive and harassing both to the landlords and tenants, the tenants get the advantage of delaying payment. The tanants will always raise objections to any mode of speedy recovery of rents such as realisation by certificate procedure. But as things are coming to, the landlords find it more and more difficult to realise rents through the present procedure. The matter may be much improved if the following method be adopted:—

(*i*) The landlord will have to file a petition with 12 annas court fee setting forth his claim and praying for sale of the holding.

(*ii*) A notice for objection to the sale will then be issued to the tenant.

(*iii*) If the tenant files any objection, the objection petition must be accompanied with a deposit of the amount claimed. The court can exempt deposit if the tenant can file rent receipts for rent of the period in suit.

(*iv*) After the hearing of the case is concluded the landlord will have to deposit 6 per cent. interest on the deposit money from the date of deposit and both the contending parties will have to deposit each other's legal costs.

(*v*) After the judgment the successful party will withdraw the amount he is entitled to by the judgment.

(*vi*) If no objection be filed by the tenant, nor any deposit be made sale proclamation will be issued.

(*vii*) Before the sale is confirmed the landlord will have to pay ad valorem court fee on the total demand in cases where no objection have been filed.

(*viii*) The tenant will have the right to file a petition for setting aside the sale within one month of delivery of possessiou

on depositing the total claim, the legal costs and the subsequent rent, etc., upto the date of deposit.

If this procedure be adopted, rents will be speedily recovered and it will be a safeguard against frivolous and false petitions on the part of the landlords and tenants. It will also ensure recovery of costs by the tenant which he can never do at present. It will give a further advantage to the tenant to recover his holding even after possession is taken by the landlord.

Q. 90. Recovery of rents through the Public Demands Recovery Act becomes very objectionable when indiscriminate distress warrants are issued. The suggestion for speedy recovery of rents has been dealt with in the answer to question 89.

Q. 92. Revenue Sale Law is harsh to the zamindars. It should be provided that the zamindar can set aside the sale by depositing the amount with 5 per cent. compensation within one month from date of sale like sales held under all other laws.

Also it should be provided that when a share of an estate having a separate account is sold for arrears of revenue, it should be freed from all encumbrances just like when the whole estate is sold.

Q. 93. Due to the amended Tenancy Act of 1938, it is likely that there will be rapid transfer of holdings from cultivators to non-agriculturists. As the tenants do not get any loan and they need money and the purchasers will not have to pay landlords' transfer fee nor has he any fear of non-recognition by the landlord, there will be free transfer of holdings. And in near future an Act may be necessary to deprive the non-cultivators of their lands in order to restore them to the cultivators. The amending Act of 1938 will help greater fragmentation of holdings and cause difficulty in realisation of rent. The abolition of the transfer fee has caused the landlords a loss equal to about 8 per cent. of the gross rental.

Reply by the East Bengal Landholders' Association, Dacca.

Q. 1. The description given in question 1 of the duties and obligation of zamindars after Permanent Settlement is exhaustive. The Permanent Settlement did not take away any existing right or rights from the tenants.

Q. 2. The Permanent Settlement made the zamindars, proprietors of the soil; thus it gave them the power to choose whom they would like as their tenants and to use the land to the interest of the province.

Q. 3. The landlords played a great part in the economic development of the country—they cleared jungles, reclaimed waste lands and made a wholesale improvement of all lands; provided facilities for irrigation and communication, dug tanks, and founded charitable dispensaries and educational institutions; and rural Bengal was what the zamindars made it. Majority of the charitable and educational institutions in Bengal are the creation of zamindars. The zamindars did not fail to perform the functions expected of them.

Q. 4. The zamindars were proprietors of the soil from before. They were only recognised and confirmed as such by the Permanent Settlement. They were never mere collectors of revenue. They had rights in land as actual proprietors. Rights of the zamindars were defined even by Act of 1784 (24 George III Cap. 57).

Q. 5. The annulment of the Permanent Settlement would certainly be the breach of a solemn pledge given by the East India Company to the zamindars. The tenants were no doubt not a party to the contract and they had no right to be a party because both according to Hindu and Muhammadan law, soil belongs to the Crown and the Crown has the right to give it to any one it pleases and it merely recognised the right, viz., proprietary right which the zamindars already possessed.

At the time when the contract was made between the Crown, i.e., the East India Company and the zamindars, the revenue assessed was only a little less than what was collected as rents from the tenants. It was only after a century of labour and huge expenditure of money, that the total rental from tenants has increased. In view of the solemn promise given at the time by the Regulation that the revenue would never be increased or changed, it would not only be an act of injustice but a breach of a solemn pledge. It would neither be equitable nor honest.

If a man purchases a house at Rs. 2,000, enlarges it by raising structure at a huge cost, enriches it by making gardens, and its worth becomes Rs. 10,000, is it just, fair and legal for the vendor to insist on having it back or demanding Rs. 8,000 more for it?

There was contract completed 150 years ago and the parties, viz., the Crown and the zamindars were acting on the strength of the contract so long; can the Crown revoke that contract now? By the Permanent Settlement, the financial condition was never crippled but rather improved. *See* R. C. Dutt's Memorial to Lord Curzon in 1900.

Q. 6. The zamindars have helped to extend cultivation and are enjoying the fruits of their industry and good management. *Vide* answer to question 3.

The large increase in cultivation has been mainly due to the initiative and pecuniary assistance of the landlords.

Cultivation has not only increased owing to the enterprise of tenants and the increase in population but has been mainly due to the gratuitous help of the landlords, who have made waste and jungle lands habitable and culturable.

Q. 7. The increase in the rent roll is three-fourth part due to the good management of the zamindars, one eighth part due to enhancement of rent and not more than one-eighth part due to the reclamation of waste lands by the efforts of the tenants themselves.

Q. 8. If the Permanent Settlement enjoined on the zamindars to conduct themselves with moderation towards their tenants, they have more than fulfilled that obligation.

The rent which a tenant usually pays for one acre of land does not exceed Rs. 3-12 and it is usually Rs. 3. What does he get for one acre of land per year? He gets at least 15 mds. of jute worth Rs. 75 and rabi crops worth at least Rs. 25—total Rs. 100. Thus while the tenant gets Rs. 100 at least he is to pay only Rs. 3-12, i.e., 1/25 of the profit which he makes—and even this he does not pay and ¼ of the tenants is always in arrears and sometimes even half.

Q. 9. The zamindars did not fail in any duties enjoined on them by the Permanent Settlement. They have improved their estates by good management and by incurring heavy expenditure. Absence of some landlords now from villages is principally due to economic causes.

Q. 10. The Permanent Settlement was in the interest of Bengal economically, and for the good of all. For the time being, when it was made, the revenue system was for the benefit of the province itself. It has done good to all classes of landlords and tenants because of this Permanent Settlement. Bengal is economically richer than any other province. The all round ruin in which the agriculture of Bengal was involved at the time of Lord Cornwallis, and the terrible famine of 1770 imperatively called for drastic solution and accordingly Regulation 1 of 1793 was promulgated. It has made famine unknown in the province. *Vide* R. C. Dutt's Memorial to Lord Curzon. And Bengal peasants are better off than the so-called cultivators of other provinces, who have no right in the land, which they cultivate.

Q. 11. The zamindars never claim to be overlords over tenants nor do the tenants admit them to be so. There has been subinfeudation—this right was recognised and confirmed by the Regulations and any one having proprietary right has certainly the power to use it to his advantage. The cry that 80 per cent. of the income from land goes to the zamindars is not correct. 33 per cent. of rent remains in arrears, 20 per cent. for management and collection charges, 20 per cent. for litigation expenses, so what is left for small landlords whose number is 90 per cent., is hardly sufficient to keep body and soul together. Moreover, Government should never grudge the increase in value of a property, with which it parted 150 years ago.

Q. 12. The Permanent Settlement should not be abolished on any or all the grounds mentioned in question 11.

Q. 13. The total abolition of the zamindari system would be a breach of a solemn promise given by the Crown in 1793. The evils of temporary settlement are too well known to be mentioned again. Those evils led to the great famine which wiped off ¼ of the population of Bengal with a fall of revenue which necessitated the introduction of Permanent Settlement. The imposition of a tax on agricultural income would nullify the provisions of the Permanent Settlement, which made revenue fixed for ever.

Q. 14. In case Government intends to purchase the interest of all the zamindars, Government should pay at least 20 times the gross income. The total sum required would be about 300 crores of Rupees.

Q. 15. If compensation at the above rate be paid in bonds, they should be permanent and not redeemable. The rate of interest should be 4 per cent. per annum.

Q 16. The purchase of zamindaris by the Government would no doubt change the social structure of Bengal. But in view of the recent enactments doing away with almost all the legitimate rights of the landlords and saddling them with the additional taxations and the new education cess and the hardship the landlords are suffering in consequence, they are willing to part with their zamindaris, if they get a fair compensation.

Q. 17. In case the Crown is determined to buy up the rights of zamindaris, it should purchase the rights of the tenureholders as well.

Q. 19. Those who are really raiyats, not those political agitators who have neither raiyati holdings nor tenures, and who have nothing to lose and who pose themselves as friends of the raiyats, never prefer to come under Government direct.

Far from enjoying any advantages over tenants under zamindars, the khas mahal tenants pay rent at almost double the rate. They are not allowed to be in arrears and rents are sometimes realised from them by means of Government gurkhas.

Q. 20. Subinfeudation or the right to sub-lease by zamindars was recognised by the Regulation I—it was a right compatible with the proprietary right of zamindars. When owing to the tenants being bad it was difficult to realise rent from them, subinfeudation was resorted to just after the Permanent Settlement and it is even being done for exactly the same reason. The position of the raiyats had not been changed in any way by subinfeudation—the tenureholders who are local men, are better able to realise rents from tenants than zamindars, who hold estates in different districts.

Q. 21. *Vide* answer to question 16.

Q 22. If the zamindaris and tenures are purchased, their homesteads and khas lands should be immuned. The test of finding out khas lands will be the same as is given in the provisions of Bengal Tenancy Act and the rulings under it.

Q. 23. The occupancy right of raiyats is a creation of British legislation—the term came in use for the first time in Act X of 1859. Before them there were khudkasht raiyats, i.e., those who lived in the village and held lands therein—they were of course protected from eviction, if they paid rent. Act X of 1859 settled the unsettled ideas by fixing a 12 years' period of prescription.

Q. 24. The cultivating raiyats were never the actual proprietors of the soil. The king was always regarded as the "lord paramount of the soil". Indeed the property in land as a transferable mercantile commodity, absolutely owned, is not an ancient institution but a modern development only.

In the greater part of the world, the right of cultivating particular portions of the earth is rather a privilege than a property. Rent is never a tax.

Q. 25. We are not in favour of maintaining or extending the right of occupancy to more than one grade of tenant.

Q. 26. Occupancy rights should never be confirmed to actual cultivators alone, but to all those who are entitled to gain them by statute as enumerated in the Bengal Tenancy Act of before 1929.

Q. 27. The Permanent Settlement only gave protection to one class of tenants, viz., "khudkasht" tenants. Thus Mr. Shore writes: (Harrington's Analysis, Vol. II). "There are two other distinction of importance with respect to the rights of the raiyats. Those who cultivate the lands of the village to which they belong, either from length of occupancy or any other cause, have a stronger right than others, and may in some measure be considered as hereditary tenants, the other class cultivate lands belonging to a village, where

they do not reside. They are considered tenants-at-will." Non-agriculturists should not be debarred from occupancy rights, when they purchase or gain lands with rights of occupancy. In fact many in Bengal own lands, which they do not themselves cultivate and it would be preposterous and dishonest to deprive them of the rights of occupancy and confer them on those labourers who, for mere wages or for part of the produce, cultivate.

Q. 23. There is no reason for levying additional tax by the State on lands converted for non-agricultural purpose. The land belongs to the landlord, who is the proprietor and he is entitled to use it in any other way than cultivation. The State has no right or power to interfere, it having divested itself of all proprietary interest in favour of the landlord. Imposition of additional tax by the State would surely retard the improvement of land even when necessary. The landlord has the right either to allow such user or to sue for ejectment for using the land in a way which renders it unfit for the purpose of the tenancy.

Q. 29. There is no great increase in the number of bargadars or others cultivating on a share of the produce. The cause of slight increase in their number is due to the fact that the bhadralok class, is migrating to cities for economic reasons and leave their lands to be cultivated by others.

Q. 30. None of the causes mentioned in this question has contributed to the slight increase in the number of bargadars.

Q. 31. The area normally held by a bargadar is not uniform in all places. In this part the area held by a bargadar is about 5 or 6 bighas, i.e., 2 or 2½ acres.

Q. 32. The majority of bargadars hold occupancy rights in other lands. The right of occupancy should never be extended to bargadars with respect to their barga lands for they are mere labourers having no interest in those lands.

The question of protection hardly arises, in as much as no right or interest in land is conferred on them. They are merely allowed to cultivate the lands for wages or on produce basis.

Q. 33. The barga system can hardly be called unsound. It gives lands to persons, who have not the means to purchase or take settlement of them. With a small holding, not sufficient for meeting all his wants, the cultivator becomes a bargadar with respect to other lands. He is only to give labour and gets half the produce. This is a great asset to him.

Q. 34. To give occupancy rights to bargadars would not only be a great anomaly but a great injustice too. A man has purchased 10 acres of land at a price of Rs. 2,000. He lets out the land in barga and the bargadar without spending a farthing, gets land worth Rs. 1,000. It will be most inequitable too. People such as zamindars

and others will not let out their lands in barga and will rather prefer to keep them under khas cultivation. Thus many who gained their livelihood by these means will fall in difficulties and will be out of employment.

Q. 35. The fair proportion of produce payable by a bargadar is half the produce and this is well established by long usage and custom. No law should be enacted for fixing the maximum limit.

Q. 36. The wages of an agricultural labourer per day vary from 4 annas to 8 annas in East Bengal in accordance with demand. A bargadar is generally better off than an agricultural labourer. The former always gets a fixed amount as his share while the latter gets wages only in season time and soon spends them away.

Q. 37. The rights of transfer of holding given by the Act of 1929 was indeed a great evil to the raiyats. They are improvident and there was no check in their voluntary transfer of holdings or those sold away in execution of decrees against them.

There was a little check on transfer as landlord's fees were to be deposited and there was the right of pre-emption by exercising which for their dispossessed tenants the zamindars re-purchased those lands and let them have the lands again.

This little check was done away with by the new Act of 1938, which took away the right of the zamindars to have 20 per cent. salami and the right to pre-emption.

The result is disastrous. By a stroke of pen and a hasty legislation, the proprietary rights of the zamindars have been taken away, their right of pre-emption is gone, the tenants are allowed unrestricted liberty to transfer their holdings at will and none is there to restrain him. Within thirty years the Bengal tenants will be mere labourers, as in other provinces. The measure does not benefit the raiyats for whom it is intended, while it ruins the landholders.

In our opinion, jote rights should be non-transferable as before 1929 or if made transferable, transfer fee and the right of pre-emption should not be abolished, but should be retained as before. It would be impossible to restrict transfer to agriculturists alone, because most of them have not the means to buy—and any measure to restrict it would only bring in more confusion and anomaly.

Q. 38. There can hardly be any fixed standard of an economic holding. It will vary largely in proportion to the members and demands of the family which owns it.

Q. 39 & 40. Raiyati holdings are becoming uneconomic owing to the (1) Hindu and Muhammadan laws of succession and inheritance, (2) jote rights being made transferable without the slightest check.

Consolidation of holding is desirable no doubt, but not practicable, so long as the laws of inheritance remain in force, and jote rights are allowed to be transferable.

Q. 41. Cultivators must have funds to purchase holdings to increase their lands. Unless there be Crown grant of lands without charging any price for it, there is hardly any special facilities, which can be given to a cultivator to increase his holding. The zamindars will have no objection to give facilities to tenants to consolidate their holdings at their own cost.

Q. 42. There should be no limit to a man acquiring lands, if he has the means to do so. Artificial restraint enacted to prevent acquisition of many raiyati holdings by one man will hardly produce any good nor is it practicable.

Q. 43. Co-parcenary is inevitable so long as the laws of inheritance remain in force.

Q. 44. Nothing can be done to stop the evil effects of co-parcenary and fragmentation in estates and tenures, unless the laws of inheritance are changed.

Q. 45. No. The Bengal Tenancy Act contains provisions for appointment of common manager under certain conditions.

Q. 46. One of the means, adopted by landlords for increasing their income, was certainly enhancement of rent or rates of rent.

Q. 47. The framers of the Permanent Settlement never contemplated the permanency or fixity of the rates of rent in the case of tenants then existing or who might subsequently come on the land.

By the Permanent Settlement, there was full recognition of the right of zamindars, to let the lands comprised in the zamindaris to whomsoever they pleased and in whatever manner they pleased (*vide* section 52 of Regulation VIII of 1793) excepting lands comprised in any mokarari (under section 52) or taluks (under section 51) and also except lands that were in occupation of khudkasht raiyats (section 60, clause 2). There were certain restrictions. The restrictions do not refer to the amount of rent; they refer merely to illegal cesses and abwabs. The regulations speak of pargana rates, *vide* Regulation XLIV of 1793.

The preamble says:—

(*i*) That at the renewal of a patta, the rate of rent was to be determined by the contracting parties.

(*ii*) That there exist certain usages of pargana rates.

(*iii*) That according to established usages, Government was entitled to get a certain proportion of the annual produce of every plot of land.

(*iv*) That the proprietor of land was to get it after Permanent Settlement.

Thus the pargana rate was a certain proportion of the annual produce of every plot of land which, according to ancient usages, was the share of the ruling power which was made over to the zamindars by Permanent Settlement. Thus the zamindars would be entitled to all advantages arising from the increase of prices. The foregoing restriction of pargana rates might have applied to khudkasht or resident cultivator raiyats, but with respect to newcomers there was no reservation; they were to be bound by the contract under which they held lands.

Q. 48. There was a great encroachment on the right of zamindars by section 50 and section 6 of Bengal Tenancy Act by which presumption of fixity of rent was held to be deducible from 20 years' payment of the same rent or rate of rent.

By the Permanent Settlement, the revenue was fixed for ever, the zamindars were made proprietors of the soil, which empowered them to let out their lands on whatsoever terms they liked without any State interference.

Q. 49. There was no intention of the framers of the Permanent Settlement that the rents of the tenants, then existing, should never be increased. *Vide* answers to questions 47 and 48.

There is no necessity for reducing the present rent and there is no standard to determine the rent or rate of rent prevailing at the time of Permanent Settlement. Nor is it practicable to determine who are successors in interest of those who were raiyats then and who came in subsequently.

The real tenants have no grievance as to amount of rent which they are to pay, for they pay only $\frac{1}{25}$th part of the produce which they get (*vide* answer to question 8). So there is no legitimate ground for reduction of rent.

Q. 50. Zamindars being proprietors, they have the right to get a certain share of produce of every land and so if the price of food crops rise, necessarily the rent, which is nothing but produce reduced to money value, must also rise. Government was perfectly right in providing for enhancement of rent on the ground of rise of prices of staple food crops.

The last portion of the question does not arise.

Q. 51. It was not the intention of the Government that zamindars would settle all lands at pargana rates.

Zamindars being proprietors of the soil, they had every right to settle the lands on any terms they liked and enjoy a substantial profit.

Again, pargana rates are vague. They were not definite. They were different with respect to different tenants. They might be one with respect to khudkasht raiyats, different as regards other tenants who took new lands and who were not resident cultivators.

Q. 52. *Economic rent.*—The various modes enumerated for determining the so-called economic rent will only bring in confusion. There can not be any common standard in the cost of cultivation and the fooding expenses of an agriculturist's family, every year and in every part of Bengal. Family members may be more or less in different families.

A huge expenditure will have to be incurred in accepting share of produce as rent. Moreover this will fluctuate every year. The same difficulty will arise in determining the market value of each holding, for it will be different in different parts of Bengal.

The "customary rates" are also impracticable to find.

Rent in kind instead of in money should bring more hardship on the tenants. And if the system of rent in kind is introduced it should confer power of distraint on landlords.

Q. 53. So far as the Government estates are concerned, the rates of rent are much higher than those of permanently settled estates. Moreover we do not exactly know the basis on which Government fixes its rate of rent.

In permanently settled estates, the rate of rent is generally fixed on custom, never on competition or consideration of the productivity of land. There is rate of rent called "nirikh" prevalent in every mauza and any one taking settlement agrees to pay rent at that rate.

It is not true that in practice, the rates differ greatly for lands of similar value in almost every village.

So far as an estate is concerned it consists of different mauzas or villages situated in several districts and the rate of rent can not therefore be the same in all villages of one estate.

Q. 54. It is not true that weaker and poorer tenants pay higher rents, and there is no reason for such discrimination. The settlement of lands was principally based on the productivity and demand and supply of it. And when once the rate was so settled in a village it became customary rate with respect to that village and underwent very little or no change during all the years.

Q. 55. Even assuming that all zamindars and middlemen are removed, re-adjustment of rents on a uniform basis throughout the province is not possible and there can be no change with respect to the

rates of rent prevailing in different mauzas. Lands in Bengal are not of the same kind everywhere, so it is not practicable to frame a uniform rate in all parts of it.

Q. 56. To take rent in kind or its equivalent in cash is impracticable as previously stated. To determine it, will require a huge amount of expenditure and labour every year and this will be for no purpose. Moreover it will be an innovation, which is conducive neither to the welfare of the tenant nor to that of the landlord.

Q. 57. Rents should never be fixed in perpetuity. Neither can it be altered on the needs of the State from time to time. They may be enhanced, if there are sufficient grounds as embodied in the Bengal Tenancy Act.

Q. 58. The question is difficult to understand. Whether the framer means raiyati rent or revenue to be paid by landlords, is not clear. Perhaps, he makes a confusion between the two words "rent" and "revenue". If he intends to mean "rent", the suggestion will practically deprive landlords of at least 50 per cent. of the rents realisable from tenants. If he means "revenue" payable by the landlords, then as there are more than 80 per cent. of small landlords, they would be exempted from payment of revenue and will enjoy their estates revenue free. Revenue can never increase because it was fixed forever by the Permanent Settlement.

Q. 59. There is no defect in the procedure for fixing fair and equitable rents and for enhancing rents in the Bengal Tenancy Act.

Q. 60. Landlords are proprietors of the soil. If the productivity of the land has increased owing to fluvial action and the tenants get more or better crop, it is but reasonable that the rent should also increase. It is unfair that a tenant should get the sole benefit of improvement, and the State or the landlord, who has got the rights of the State, should get nothing.

Q. 61. On the same ground, there should be enhancement of rent on account of rise in prices of staple food crops.

Q. 62. It should be inequitable to give up enhancement on the ground that the whole produce of the tenant would be consumed in meeting the family needs. And if once this principle is adopted there would be no enhancement and no end of litigation in finding out whether the produce got by a tenant is sufficient for his family needs or not.

Q. 63. Advance rent and salami are two different things. Salami is what is paid as nazar to the landlord for taking settlement of land and advance rent is rent for 2 or 3 years paid in advance. In East Bengal there is no case in which advance rent is paid for raiyati land.

There was first the pargana rate applicable to khudkasht tenants only, then came the word prevailing rate, i.e., the rate of rent paid by tenants in a particular mauza.

If other tenants pay at a particular rate of rent, there is no reason why a particular tenant whose rent is less should not pay at the same rate.

If the raiyat has improved his holding or land which was *lower in* value, the Court in granting enhancement should certainly *take that* fact into consideration.

Q. 64. There should not be any provision for reducing contractual rents or for limiting rents for new settlements.

Q. 65. There are no defects in Chapter X of Bengal Tenancy Act.

Q. 66. In granting enhancements under section 105, Bengal Tenancy Act, the Settlement Officer and Special Judges rather erred in leniency towards tenants and there is absolutely no reason to doubt their ability and impartiality.

Q. 67. Revisional settlements are sometimes made with the object of enhancing revenue.

Q. 68. No.

Q. 69. We do not know of any such instance.

Q. 70. We are not conversant with rates of rent in different khas mahals of the Government of Bengal. Perhaps rents vary according to local conditions.

Q. 71. The zamindars are not as a rule allowed remission of revenue in any circumstance. We do not know of any instance in which this has been done in the Dacca district. The conditions, enumerated in question 71 for remission of Government revenue, are such as can not be proved, and the procedure being impracticable has never been availed of in East Bengal. Even when the tenants do not pay rent, revenue has to be paid, otherwise estates are sold away.

In case of acute distress, such as the present year flood, there should have been remission of revenue. On the other hand the present Government did not even keep the imposition of education cess in abeyance in the Dacca district, though petitioned again and again.

Q. 72. So far as agriculturists are concerned, they have not to incur any cost of cultivation as they or their family members plough and reap themselves.

Even when day labourers are engaged for particular times, the total cost per acre in the case of jute does not exceed Rs. 15 and in the case of paddy Rs. 10.

Q. 73. There are no materials before us to show that the productivity of the soil of Bengal is on the decrease. The measures taken by the Government to improve the fertility of the soil are not adequate.

Q. 74 and 75. We do not know anything about these questions.

Q. 76. Salami is realised by the Government at the time of settlement of new lands in khas mahals. No portion of salami is utilised in improving the agricultural condition of those lands.

Q. 77. In our humble opinion, the land revenue system of Bengal is not responsible for the condition of the raiyats. They always live beyond their means and incur debts which they can not pay.

The districts of eastern Bengal are jute growing districts. The price of jute had fallen down. Unless a standard price of jute is fixed and enforced by statute, there is hardly any possibility of improving the condition of raiyats.

Q. 78. Thrifty tenants are able to maintain themselves from the produce of their land.

Q. 79. The method suggested is hardly practicable and it will entail a huge cost and will give rise to endless controversies as to the truth of the entries.

Q. 80. We are in agreement with the suggestions contained in the question for the increase of the income of the cultivating raiyats. But we think that their condition cannot be improved unless there be substantial State aid and more wealth comes in the province. And this is possible if the crops which they grow, especially jute, gets a decent price, which it will never fetch, unless there is legislation.

Q. 81. We do not think that the pressure of population is the main reason of the poverty of agriculturists.

Q. 82. To divert them to large industries by starting Government aided factories is no doubt one of the means for relieving the pressure of population.

Q. 83. Agricultural credits can be increased when men believe that if they lend money to agriculturists they would get back their money. But this belief has been sadly shaken by the Bengal Agricultural Debtors Act, by which the hands of law courts and even of the High Court have been paralysed.

Unless that Act is repealed or salutary provisions are introduced, by which applications are to be filed before Munsifs and appeals are to be preferred before Subordinate Judges, agricultural credit is gone for ever in Bengal at least. Private mahajans were ever ready to help the agriculturists. They are now shy because of the Bengal Agricultural Debtors Act. It is not possible for the Government to supply the needs of every agriculturist in Bengal.

Q. 84. We do not know whether 25 per cent. of the gross produce of land goes to the mahajans every year. But a portion is spent for payment of interest. Now the mahajans have fallen in difficulties. Their ruin is staring them in the face and 90 per cent. would be satisfied with the principal amount lent, with a small sum as interest. Is the Government ready to find out that sum? If it is so, the debts of the agriculturists may be wiped off in no time.

Q. 85. Co-operative credit societies are sheer failures in *tackling* the credit problems of the agriculturists. The system of lending *is* bad and owing to the paucity of competent officers in the Department, Government has incurred only loss after loss.

Q. 86. The principal defects besides those mentioned in answer to question 83 are:—

(1) Rent should never have been included under the operation of this Act. It has been a great hardship to landlords inasmuch as they are liable for prompt payment of revenue while payment of their dues are indefinitely postponed.

(2) Sanctity of a contractual relation is brushed aside and ignored.

(3) The personnel of all Boards under the Act are highly unsatisfactory and this has rudely shaken the faith of the people in the British administration of justice.

(4) Arbitary and summary powers has been conferred on unlettered persons without the slightest knowledge of law and procedure without any check even from the Highest Court of Justice and even the appearance of lawyers have been shut.

(5) Rural credit is almost gone due to the operation of the Act.

(6) The administration of justice in regular courts has been paralysed.

Q. 87. The suggestion is good no doubt, but it will not be practicable.

Q. 89. To confer facilities for speedy realisation of rent was an obligation which the Government took upon itself at the time of Permanent Settlement.

The various Bengal Tenancy Acts passed have made rent suits costly and lengthy. There are instances where for a claim of 12 annas or Re. 1, Rs. 15 to Rs. 20 are to be spent, when there are co-sharer landlords and tenants. The time spent is never less than 1½ year or 2 years.

In helping the landlords in speedy realisation of rent, there should be drastic change in the Bengal Tenancy Act, and a provision added in

it by which as soon as a tenant is in arrears for 4 years or so, on the expiration of a prescribed period, he will no longer be a tenant having right in the land but a trespasser only and the landlord will be entitled to eject him.

In the opinion of this Association, the procedure for rent suits should be simpler and more speedy. As for instance, in the place of serving summons on co-sharers, landlords and tenants, there should be a provision for service of registered notice or summons and on the expiry of the time fixed (never exceeding a month) a decree should be passed at once and instead of the elaborate rent execution proceedings, the decree should be executed forthwith without a formal application for the same. The provisions of Act VIII of 1819 (Patni Regulation) should be made applicable to rent suits. Excepting those estates which are managed by the Court of Wards, at least 30 per cent. of rent remains in arrears every year in the case of most other estates. Tenants have means to pay, yet they will not do so.

Q. 90. Recovery of rent through the Public Demands Recovery Act is neither objectionable nor harassing. This special power should be more widely given to landlords, so that they may easily realise their rents. Section 158A of the Bengal Tenancy Act should find place in the statute without the imposition of maintenance costs.

Q. 91. We are in favour of retaining the old Regulations and we are rather afraid of new legislations, hastly complied and more hastily made into laws.

Q. 92. In the Civil Procedure Code and in the Bengal Tenancy Act, there is provision that if a property is sold in execution of a decree, the sale can be set aside if the decretal amount with 5 per cent. compensation be paid to the purchaser within a certain time. But in revenue sale law there is no such provision, we would welcome some such section in the revenue sale law itself.

Q. 93. The economic effect of Tenancy Amendment Act of 1938 is disastrous on the landlords and the tenants. By the Permanent Settlement up till 1938, the landlords were recognised as proprietors of the soil and jote rights were non-transferable. In 1929, there was a compromise, which recognised the proprietary right of the landlords and allowed them 20 per cent. salami and the right of pre-emption and they agreed that the jote rights may on those conditions be transferred. But the amending Act of 1938 confirmed the transferability of jote right, while it abolished the provision of 20 per cent. salami and the right of pre-emption. By a stroke of pen, on the face of opposition of all landlords the Bill was made an Act.

The average income from landlords' fees amounted to about $\frac{1}{10}$th of the annual gross income and the Bengal Government has thought fit to

deprive the landlords of this for no fault of theirs. By taking away the right of pre-emption from the landlords, the Bengal Government has conferred it on the co-sharer raiyat.

While causing this heavy loss to the landlords, has the measure benefited the tenants? Certainly not, if transferability of jote rights remains as it is now without any check, these tenants, at least a major portion of them, will be landless, within the next 30 years.

In addition to those enumerated above some defects of the Bengal Tenancy Act are:—

(1) Suspension of the enhancement of rent.

(2) Retrospective effect of wiping off usufructuary mortgage debt after 15 years.

(3) Remission of rent in the case of diluvion keeping the raiyats interest intact, without any proportionate remission of revenue.

(4) Abolition of section 158 (A) of the Bengal Tenancy Act.

(5) Conferring the right of pre-emption on co-tenants.

Reply by the Faridpur Landholders' Association.

Q. 1. (*i*) Yes. The duties and obligations of the zamindars are indicated by Regulation I of 1793. The duties and obligations so indicated are exactly those of the Government, if raiyatwari settlement instead of the Permanent Settlement with the zamindars were concluded.

(*ii*) No. The quinquennial returns submitted by the zamindars at the time of the Permanent Settlement show that there were shamilat talukdars, howladars, mirasdars, ordinary raiyats, even from before the Permanent Settlement. The right and liabilities of the various grades of tenants were not touched by Regulation I of 1793. The Regulation merely expressed the Government's intention, that the zamindars would extend to their subordinate tenants the same generous treatment which they were to receive from the Government. On the contrary the subsequent legislation, e.g., Act X of 1859, Act VIII B, C of 1869 and Act VIII of 1885, the present Bengal Tenancy Act with all subsequent amendments show that the zamindars' rights have been curtailed to a certain extent.

Q. 2. The Permanent Settlement did not convey any power to the zamindars nor did it take away any existing power which existed from before the Permanent Settlement to choose their tenants. The fact that the Regulation I of 1793 required the zamindars to exert themselves in the cultivation of their lands and they were to enjoy exclusively the fruits of their good management and industry and further more the subsequent legislation, i.e., Act X of 1859, which recognised the right of the zamindars to eject raiyats for non-payment of rent—even when the occupancy rights under certain circumstances was given to the raiyats and also the fact that the raiyats interest was not transferable except with the landlords' consent and except in the case of custom clearly indicate that the zamindars had the power to choose their tenants.

Q. 3. It appears from the note of Lord Cornwallis on Mr. Shore's Minute, that one-third of the Company's territory in Hindusthan was jungle inhabited by wild beasts. At the time of the Permanent Settlement, Bengal, Bihar and Orissa were the permanent territories of the East India Company in Hindusthan. It follows, therefore, that about one-third of the territory of which Permanent Settlement was concluded was jungly land. The jungle has been cleared and lands brought under cultivation since the Permanent Settlement. In Bengal, specially lower Bengal, there were large water-logged areas at the time of Permanent Settlement. That area has nearly been reclaimed. No doubt this reclamation may be partially due to fluvial action but still it cannot be denied that the zamindars spent large amounts of money for the reclamation of the lands and also materially helped extension of cultivation by granting leases at progressive rate of rents and by the grant of rent-free leases or leases at nominal rates in expectation of

their future profits as guaranteed by Regulation I of 1793. The fact that there have not been so repeated famines in the permanent settled areas as in non-permanently settled areas is a clear proof of the economic development of Bengal since the Permanent Settlement. No doubt there has been no practical development of industry. For this absence of industry the zamindars are not to blame but the industrial and commercial policy of the East India Company and of the present Government is to blame. The British statesmen in the early years of the 19th century, as well as now, did all they could to promote British industries and commerce at the sacrifice of Indian industries and commerce.

Q. 4. No. Zamindars were actual proprietors from before the Permanent Settlement. Shore's Minutes reported in 5th Report, Vol. II, page 745—referred to in Dutt's Economic History of India, p. 88.

Q. 5. (*i*) Yes, it would be a breach of pledge. In speaking of local cesses on land during Lord Mayo's time Sir Erskin Peary, C. J., Bombay, said "that the language and acts of Lord Cornwallis and of the members of the Government of his day were so distinct, solemn and unambiguous that it would be a direct violation of British faith to impose special taxes. If imposition of fresh local cess is in violation of the pledge, the annulment of the Permanent Settlement would be a greater violation of the pledge. The annulment of the Permanent Settlement would not only be a breach of pledge but a breach of contract. Permanent Settlement was a contract between the East India Company who were grantees of the Dewani from the then Emperor. East India Company were not then the Crown. The legal position of the parties was that of a landlord and tenant. The Company were the landlord and the zamindars the tenants—permanent tenants. The East India Company were abolished in 1858. Their capital was paid off by loans which were made an Indian debt on which interest is paid from Indian taxes. So the present Government is a mere transferee from the Company. The Government is bound by the contract between the zamindars and the Company. A conqueror may not respect the rights of the subjects of the conquered territory, may confiscate the property of subjects and may make new settlements. But the East India Company were not and the British Government is not, a conqueror in Bengal. So the pre-existing rights of the zamindars, who were actual proprietors of the soil could not be infringed and their properties confiscated by the Company. So their rights were recognised. The Muhammadan Government had their rights of making periodical assessment of revenue so the grantees of the dewani made periodical assessment which was ultimately made permanent. The Permanent Settlement was a pure matter of contract between the Company and the zamindars. The present Government being a successor in interest of the Company is bound by the contract.

The tenants were and are now subordinate to the zamindars and they are bound by legal and valid contracts between them and the zamindars. It is perfectly immaterial whether tenants were or were not parties to the pledge. But Regulation I of 1793 reserved the right of the Company to enact such Regulation as might be thought necessary for the protection and welfare of the tenants of the soil and subsequently various legislations were adopted to safeguard the interests of the tenants.

(*ii*) As to crippling the financial resources of the country:—

To allow the subjects of the State to enjoy the profits of their own industry and good management and to prescribe a limit to land tax is an act of political wisdom. This was the policy on which land tax was made perpetual in England in 1798, five years after the Permanent Settlement of Bengal. At the time of the Permanent Settlement only 1/10th of the rental, most insignificant part—was left for the zamindars and the revenue assessed was 9/10ths of the rent roll. It is only by reclamation of waste land and extension of cultivation that the rent roll since Permanent Settlement has increased from 3 crores to 12 crores if the figures be correct. The zamindars are not to be penalized for the improvement they made. No doubt the improvement was effected with the help of the raiyats. The raiyats also took their legitimate share.

Q. 6. Impossible to ascertain the extent due to—

(*i*) increase of population,

(*ii*) enterprise of tenants, and

(*iii*) initiative or the pecuniary or other assistance of zamindars.

Q. 7. Combined effect of—

(*i*) the industry and good management of zamindars,

(*ii*) increase in cultivation and reclamation of waste lands by the efforts of the tenants, and

(*iii*) enhancement of rents.

Q. 8. Since the Permanent Settlement several legislations were enacted restricting the powers of the zamindars with respect to tenants, but still in comparison of Government treatment with the khas mahal tenants, the zamindars are more generous and lenient towards their tenants. The zamindars have to pay revenue under sunset law, the zamindars are not entitled to any reduction or remission of revenue on account of drought, inundation and failure of crops but the zamindars have to realise rents by law suits if not amicably realised. Realisation by suit takes tremendously long time, not to speak of additional expenditure. In case of drought, inundation or failure of crops, zamindars

have often to grant remission or to suffer delay in realisation. It is not unoften that they suffer their arrears of rent to be barred by limitation. In case of Government khas mahals arrears are realised by certificate, promptly kist by kist. Seldom any remission or reduction of rent is allowed on account of drought, inundation or failure of crops.

Q. 9. So far as industrial development by landlords is concerned, see reply to question 3, last part.

Q. 10. Yes. It is due to the Permanent Settlement in Bengal that Bengal is not so frequently visited with famines as other provinces are where there is no Permanent Settlement.

Q. 11. (*i*) The criticism is not justified. When the Permanent Settlement was concluded, the zamindars were allowed a margin of only ten per cent. as their share of the rent roll on the clear understanding that they would enjoy the benefit of improvement by cultivation and industry. As a matter of fact allowance of 10 per cent. would not cover the collection charges. Besides the revenue, the zamindars have to pay additional cesses out of their own profits from the land.

(*ii*) The system of subinfeudation of tenancy was in vogue from before the conclusion of the Permanent Settlement as will appear from the quinquennial returns on the basis of which the revenue was assessed at the Permanent Settlement.

(*iii*) Enhancement of raiyats' rent is regulated by the tenancy laws passed since the Permanent Settlement.

(*iv*) Raiyatwari system where there is no Permanent Settlement is not free from overlordship. The only difference is that there the overlord is Government but where the permanent system prevails the overlordship has been conferred upon the zamindars but it is not true to say that this overlordship is harassing and oppressive over the cultivators of the soil as the Government has got the control over the zamindars. The cry of the zamindars being harassing and oppressive is not justifiable. In cases of dearth, scarcity or famine, the zamindars in some cases allow remission or suspension of realisation of rent but the Government hardly does it although there may be rules for suspension or abatement in case of khas mahals. The rate of raiyats' rent in case of khas mahal lands is much higher than that in case of permanently settled lands.

Q. 12. No.

Q. 13. No, because economic condition of the tenants in places where raiyatwari system prevails is not better rather worse than that of the raiyats of Bengal. The coolies or the ordinary day labourers come to Bengal from those parts of the country where temporary settlement prevails where raiyats' rents are enhanced every 20 or 30 years and consequently the lands are rack rented.

Those who are for the abolition of the Permanent Settlement proceed upon the idea that the zamindars are (*a*) rolling in wealth, (*b*) the riayats are starving, and (*c*) also upon the idea that the Government revenues would increase if the zamindars and intermediate tenureholders be removed and the Government receive rents directly from the cultivators; as to (*a*) and (*b*)—On a calculation of the figures from the Land Revenue Administration Reports of Bengal and other papers it will appear that the average income of every landlord is something like Rs. 6 per annum and the average income of the raiyats both from land and from subsidiary sources would be Rs. 6 per head. Thus the income of the zamindars as well as of the cultivators being the same, both are starving and then as to (*c*) there will be an increase but that increase will be apparent but not real, the increase will be consumed by the increase in the collection charges and by the interest on debentures if issued to zamindars instead of cash payments.

Q. 14. In view of the above answers the question does not arise.

Q. 15. In view of the above answers the question does not arise.

Q. 16. Abolition of zamindari will necessarily involve the question of the abolition of the intermediate tenancies. In Bengal the most advanced class of people is the intermediate middleclass man. They will be hard hit by the abolition of the intermediate tenures. The social structure of Bengal will not be improved rather the social system will be revolutionized to the detriment of the people.

Q. 17. If the zamindari right be purchased by the Government necessarily the rights of the tenureholders between the zamindars and the raiyats shall have to be purchased otherwise the assets from the raiyats will be intercepted by the tenureholders. The question whether the tenureholders' interests shall be purchased comes in only when the zamindari is abolished. But when in answer to the previous question it has been said that the zamindari interests should not be abolished nor purchased necessarily the opinion as to the propriety or desirability of purchase of the intermediate interests must be adverse to the purchase of intermediate tenures as well.

As to the question "will this change lead to any advantage" the answer will be "no". Although the Government may receive the rent direct from the raiyats and thereby the Government revenue on the face of it may be increased but this increase will simply be apparent but not real because the Government shall have to maintain extra staff for collection directly from the raiyats and also to pay either the purchase money in cash or by debenture carrying interest which shall have to be paid regularly to the debentureholders. The question

as to how much of the increased revenue will be consumed by the extra staff and the interest on the debentures, is a matter of calculation.

In land acquisition cases, compensation in respect of tenanted lands is allowed at 20 years' purchase of actual collection minus the land revenue which is abated. On that analogy the purchased price of the landlords' interests would be 20 years' purchase of the actual profits of the zamindars.

Now from the figures as supplied in the question it appears that about 80 per cent. of the raiyats' rent roll is appropriated by the zamindars, in that case the compensation to be allowed to the zamindars will be 20 × 80 per cent. of 12 crores—a very big amount though not too big for the Government and if debentures be issued instead of cash payment of compensation to the zamindars, 3 per cent. on the total amount of the compensation would be again a big sum.

Q. 18. Has been practically answered in reply to question 17.

Q. 19. It is for the khas mahal tenants to say but so far as is known the raiyats prefer zamindars as the landlords to being khas mahal tenants.

Q. 20. Subinfeudation was in vogue before the Permanent Settlement so it has been said in answer to question 11, clause (*2*).

The position of the intermediate tenants does not affect the cultivating raiyats under khas mahals—as is evident from a comparison of the rental of the khas mahal tenants with that of the rental in Permanent Settlement areas.

Q. 21. The abolition of the intermediate tenures will reduce the tenureholders to abject poverty without any additional advantage to the raiyats.

Q. 22. The homestead and khas lands of zamindars and tenureholders should be left to them if they so desire.

As to the criterion of ascertainment of zamindars and tenureholders' khas lands reference may be made to section 120 of the Bengal Tenancy Act.

Q. 23. Yes. Before the Permanent Settlement, there were khudkasht raiyats whose tenures were rather permanent in point of duration whereas the paikasht raiyats were temporary.

Q. 24. No. At the time of the Permanent Settlement, the zamindars were found to be the actual proprietors of the soil, as has been shown in answer to question 4.

The proprietors have the absolute right to deal with the land, e.g., to sell, to lease, to mortgage, to excavate, for the purpose of brick

manufacture, and to carry on operation to raise permanent structures. So the word proprietor connotes absolute right to deal with the land whereas the cultivators had not those rights. It is only lately that the raiyats have been by legislation given some of those powers but not all.

Q. 25. Yes, there can be no objection to extending the right of occupancy to more than one grade of tenants provided such occupancy rights of under-raiyats of whatever grade be not the protected interest as defined in the Bengal Tenancy Act and the Revenue Sale Law, but the occupancy right should not be confined to cultivating tenants only but should also be extended to non-agricultural tenants.

Q. 26. Does not arise in view of the reply to question 25.

Q. 27. Yes, *vide* section 8, paragraph II of Regulation I of 1793.

Answer of the second part is given in reply to question 25.

Q. 28. The reason is that the Bengal Tenancy Act, section 155 provides for the ejectment of tenants on the ground that he has used the land in a manner which renders it unfit for the purpose of the tenancy, i.e., agricultural tenancy. Therefore, there is no guarantee of protection of the tenants using the land of agricultural tenancy for non-agricultural purposes. Income-tax is leviable on use of such land for non-agricultural purposes. So a separate land tax is not desirable.

Q. 29. Yes. The number is increasing. The reason seems to be that the sons of the cultivating classes are getting education and after getting some sort of education, they are not inclined to plough their lands with their own hands.

Q. 30. (*i*). Not correct.

(*ii*) Correct.

(*iii*) Correct.

Part (*ii*) and (*iii*) are also some of the causes of this increase of bargadars.

Q. 31. The first part cannot be answered without definite statistics. As to the second part, not the majority but some of the bargadars hold lands in raiyati or under-raiyati when their raiyati or under-raiyati is not sufficient for their maintenance and when they have spare time to cultivate as bargadar in addition to cultivating their raiyati or under-raiyati rights.

Q. 32. No. According to the Bengal Tenancy Act some of the bargadars are tenants and others are not. The last class gets remuneration as a labourer. The first class being treated as tenant, their rights and liabilities are controlled by the Bengal Tenancy Act and so they get protection under the existing law.

Q. 33. Yes, as otherwise poor cultivators who cannot afford to take settlement of land on payment of salami would be out of employment as a cultivator and shall have to take to other courses for their maintenance—the only course left for them would be simply to work as coolies.

The second part of the question does not arise.

Q. 34. Giving occupancy rights to bargadars in general would be detrimental to the interest of the person whose land is held in barga because in case the bargadar does not pay adequate attention to the cultivation of the barga lands or does not deliver his master's proper share the latter would be helpless as he would not be entitled to settle the same land to some other bargadar or to settle it on rent to some other person.

Bargadars may be of two classes, one class that has its own rented land and also barga land, the other class which may not have its own rented land but simply cultivates others' lands in barga. It is common experience that the first class pays greater attention to his own rented land but does not pay adequate attention to the bargalands. In that case the person who lets out in barga does not get his adequate share though he may get relief by suit but that is a difficult and expensive matter. The other class which has got only barga lands may not invariably grow full crop, in that case too the owner of the land will not be able to settle the land in barga with some other person or bring it under his own cultivation and if by tedious process of litigation he can secure a decree it will be useless as the bargadar may have no property to be seized in execution or he may take recourse to the provisions of the Bengal Agricultural Debtors' Act.

As regards the last portion of this question the answer is in the affirmative.

Q. 35. The proportion depends upon the nature of the soil and the kind of crop. The proportion of the share is not the same in all parts of the country. The custom prevails in respect of shares—not necessary to fix maximum.

Q. 36. There is no standard of wages of agricultural labourers. Wages depend upon demand and supply.

Their economic position is much worse than that of the bargadar and under-raiyats as the latter even employ day labourers for their cultivation and harvesting and make some profit by such employment.

Q. 37. Yes. There is a tendency and this tendency will increase as a result of further facilities given by the Act of 1938.

Freedom of transfer of agricultural land will ultimately bring about a condition detrimental to the agricultural society. Economic condition of Bengal agriculturists though better than that of agriculturists of other parts of the country is not a solvent one. They have to incur debts from the creditors who are mostly non-agriculturists and generally not landholders. Agricultural lands will inevitably pass into the hands of the creditors and the agriculturists will be either bargadar or under-raiyats of different grades or landless fellows unless the Bengal Agricultural Debtors' Act gives them some relief.

Restriction of transfer to agriculturists only will stand in the way of a fair price for sale. Thus the vendor will not get adequate price either by private sale or court sale.

Restriction is not practicable. Section 155, Bengal Tenancy Act, is a sufficient check against use of agricultural land for non-agricultural purposes.

Q. 38. Four acres for a family of five members.

Q. 39. Yes, the size of many raiyati holdings are uneconomic according to the answer to question 38. There are also many raiyati holdings of much larger size.

Answer to the second part of the question is in the affirmative.

Q. 40. Consolidation is desirable in case of small tenancies which may be made either with the consent of the tenants in a body as well as the landlord or landlords in a body or by an application by either party in the civil court in the same way as the tenancy may be divided.

Q. 41. No objection.

Q. 42. Accumulation of large areas in one hand may be undesirable but prevention is not possible.

Q. 43. Not always, it cannot be minimised without interference with the laws of inheritance.

Q. 44. Can only be done by introduction of a law of primogeniture —but that will interfere with the Hindu and Muhammadan laws of succession.

Q. 45. Desirable.

Q. 46. No. Paragraph 3, section 7, Regulation I of 1793 contemplated that the zamindars will exert themselves in the cultivation of their land and will enjoy exclusively the fruits of their good management and industry and so the law has recognised restriction of enhancement of rents in cases of tenures by section 7 and in cases of both tenureholders and raiyats by section 50, of the Bengal Tenancy Act.

Q. 47. No. They did not contemplate similar permanency and fixity of rates of rent either in the case of tenants then existing or in the case of tenants subsequently introduced. From before the Permanent Settlement in Bengal raiyati settlement was in vogue in several provinces. In such raiyatwari settlements Government increased the rent from time to time but in Bengal there was no raiyatwari settlement but assessment of revenue used to be made at intervals with the proprietors of the soil on the basis of the proprietors' rent roll irrespective of the question of the fixity of rent of the subordinate tenants so no question arose as to whether the subordinate tenants' rent should be fixed or the zamindars would be free to adjust their rent rolls with the tenants. The question of enhancement of the subordinate tenants' rent arose subsequently, so by subsequent legislation certain restrictions were placed upon enhancement of rents as such power was reserved by section 8, clause (1) of Regulation I of 1793 to the Governor-General in Council.

Q. 48. In view of the answers to question No. 47, this question does not arise.

However as the question has been put, the answer is—

(*a*) The terms of the Regulation do not support the view that the rents of tenancies were fixed in perpetuity.

(*b*) No other Regulation supports that view of rent having been fixed in perpetuity.

(*c*) No.

(*d*) No. Act X of 1859 and Act VIII of 1885, Bengal Tenancy Act, simply created a bar to enhancement of rents of the tenancies existing *from the time of Permanent Settlement*. That shows unmistakably that as early as 1859 the landlords' power of enhancement of rent was recognised.

Act X of 1859 was passed 66 years after the Permanent Settlement, same rent continuing unvaried for over sixty years was a good indication of rent being fixed at its inception, so section 6 of Bengal Tenancy Act and similar provision in Act X of 1859 was made.

As it was physically impossible to prove something of great antiquity beyond the memory of living generation, some presumption has to be made. So the legislature in 1885 enacted section 6 of Bengal Tenancy Act and similar provision has been made in Act X of 1859.

Section 50 (1), Bengal Tenancy Act, is only a mode of proof, that is a presumption from certain proved fact.

(*e*) This general ground is fallacious and unsustainable.

At Permanent Settlement the zamindars were allowed a margin of only 10 per cent. which was quite insufficient to cover the collection

expenses. So apparently to recompense the zamindars' loss no restriction was then placed on probable enhancement of rent of tenants and provision was also made in section 31 of Regulation 2 of 1819 for excluding waste lands, etc., within the limits of the zemindaries from operation of resumption. Subsequently and long afterwards when properly unreasonable enhancement used to be made by zamindars the legislature thought of placing some restriction by Act X of 1859 and Act VIII of 1885 on enhancement of rents.

Q. 49. This is a purely hypothetical question. If the rate of rent has subsequent to the Permanent Settlement been changed and increased not in violation of any law, by contract or decree of court, then it is neither possible, nor legal nor equitable to bring down the rate to a lesser one which might have existed at the time of the Permanent Settlement.

Q. 50. No. It was just the policy of Lord Ripon to give a Permanent Settlement to cultivators in provinces where there was no Permanent Settlement when he said to the cultivators "You are secured henceforth from all uncertainties and all harassing enquiries, the land tax you pay shall not be an enhanced share of your produce." But at the same time he said to the Settlement Officers "You shall have a legitimate increase in the land revenue if there is an increase in the prices of crops". This was said by Lord Ripon in connection with the settlement of land revenue in Madras and Bombay (*vide* R. C. Dutt's Economic History of India, page 504, Victorian age). The increase or decrease in the price of crops affects the economic condition both of the landlords and the cultivators. If the prices of crops increase the landlords can legitimately claim a share of that increase in the shape of rent. So the provision of increase of rent on the ground of increase of the price of crops in 1859 as well as in 1885 was *not a mistaken policy.*

Q. 51. There was no such intention expressed in the wording of Regulation I of 1793.

The second part of the question does not arise in view of the above answer.

Q. 52. Fifty per cent. of the nett rental may be fair and equitable in case of tenureholders of all descriptions subject to the conditions: (*a*) contract between the parties, (*b*) the amount of premium as salami paid at the inception of the tenancy, and (*c*) the improvement effected by the landlord or the tenant, (*d*) the nature of the land settled originally. There is no hard and fast rule in the Bengal Tenancy Act in determining what would be fair and equitable rent in respect of occupancy raiyats but section 27 of the Bengal Tenancy Act provides for a presumption that the existing rent is a fair and equitable

rent, and certain rules have been formulated by sections 30-35. With respect to non-occupancy raiyats section 46, clause (9) gives an indication as to the rent generally paid by raiyats for lands of similar description and with like advantages in the same village.

Section 48B deals with money rents of under-raiyats. The solution of the question as to what is fair and equitable rents depends on various circumstances, e.g.—

(1) the prevailing rate;

(2) the rise of the average local prices of staple food crops;

(3) productive power of the land both by the landlords' action and fluvial action.

The rules regarding fair and equitable rents with respect to occupancy raiyats, non-occupancy raiyats and under-raiyats given in the Bengal Tenancy Act may be taken to be based on sound principles.

Q. 53. (*i*) So far as the rent of permanently settled area is concerned the raiyats' or the cultivators' rents are not based on any uniform principle but enhancements have been obtained under section 105 and section 105A on the principles indicated in sections 7, 30 and 46 of the Bengal Tenancy Act and in Government estates enhancements are generally made during every renewal of those settlements on the principles indicated in those sections.

Yes. So far as old tenancies are concerned materials are not available for us to say to what extent rates are fixed on (*a*) custom, (*b*) competition, (*c*) productivity of land.

(*ii*) Yes. In practice rates differ for lands of similar value almost in every village and estate.

Q. 54. If by poorer and weaker tenants, it is meant, the non-occupancy raiyats, the under-raiyat or the bargadars, then they pay a higher rent in many estates, otherwise poorer and weaker tenants of the same class do not pay higher rents than that paid by the richer and more powerful tenants.

No other factors.

Q. 55. No. Because it appears in khas mahal estates that the rents of the raiyats which are fixed on certain principles enunciated in the Bengal Tenancy Act, are generally higher. Any readjustment of the rents of the cultivators of the permanently settled area will be to their disadvantage.

Any readjustment of rents on a fixed principle will unsettle the settled tenancies and would be to the prejudice of the cultivators and would not be to their advantage and any such readjustment cannot be effected without a fresh record of rights.

Q. 56. Not more than 50 per cent. or less of the nett produce. Nett produce means produce after deducting the cultivation expenses, price of seeds, cattle expenses and costs of implements also the cultivators' family expenses as almost all the members of the cultivators' family in one shape or another contribute to the agricultural labour without any fixed remuneration.

Q. 57. Yes, it should be fixed in perpetuity subject to variation according to the rise in the price of staple food crops but not according to the increased value of the land or the needs of the State from time to time. If rent is fixed in perpetuity subject to the qualification, stated in the above answer, there would be no necessity of re-examination of the rate of rent from time to time. If rate of rent is not fixed in perpetuity and if re-examination of rents be considered necessary, it should not be done before the expiration of 30 years.

Q. 58. No. There would be no advantage from tenants' point of view in the substitution of an income-tax on profits from agriculture in place of rent. There will be no security of tenants' position.

Yes, in that case, a large proportion of land in Bengal would escape the payment of revenue, if income below a certain figure were exempted from the tax.

Yes, the proportion of exemption will steadily tend to increase as population and fragmentation of holdings will increase.

Any land tax may in case of scarcity and famine greatly be reduced.

Q. 59. To ascertain the prevailing rate, according to the rules of the Bengal Tenancy Act, is a difficult matter and too difficult for small landlords. The cost itself is prohibitive. The Government has got a separate staff to carry on the settlement operation from time to time but the private landlords have got no such separate staffs with the power to settle fair and equitable rent. The private landlords have invariably to seek the help of courts, where the cost is prohibitive and ruinous both to the landlords and tenants and the hard and fast rule enacted in section 29 of the Bengal Tenancy Act is also a bar to an amicable adjustment between the landlords and tenants even when increase of rent of more than 2 annas in the rupee may be more advantageous to the parties, than obtaining such increase, through the intervention of courts.

Q. 60. If the tenants be entitled to reduction of rent owing to deterioration of land by fluvial action, certainly he should pay for improvement caused by fluvial action, otherwise not.

Q. 61. No. Not fair, that a particular tenant should get all the benefits and the State or the landlord nothing.

Q. 62. It would really be a hardship on such a tenant.

Q. 63. No. There can be no objection to reduction on this principle as enhancement is allowed on the ground of prevailing rate. It will be equitable to enhance or to reduce the rent on grounds of prevailing rate of rent. But allowance should be given for improvement by cultivator and salami, if any, paid.

Q. 64. Parties should be left free to contract. But contracts may be avoided or rejected on grounds specified in the Contract Act and not otherwise.

Q. 65(A). (*a*) Here the settlement is made by the Revenue Officer on the rent roll prepared *ex parte*.

(*b*) There is no rent roll prepared as in the case of Government estates but rate of rent is to be determined on principles indicated in sections 30 to 35, Bengal Tenancy Act, which in practice is a very difficult matter.

Q. 65(B). Settlement under section 105, Bengal Tenancy Act, should be made by the Civil Court rather than the Revenue Officer as in Bengal Tenancy Act.

Q. 66. No.

Q. 67. Yes. It is true.

Q. 68. No.

Q. 73. Yes, generally on the decrease.

Cause of decrease.—In Bengal productivity of the soil mainly depends on fluvial action. The Bengal rivers are mostly dead or dying. The Irrigation Department of Bengal is not much in evidence. No attempt is made to open out silted up water channels or to drain out swamps and water-logged tracts. On the contrary, roads and rail lines are constructed without due regard to the drainage and sometimes natural outlets are blocked.

Water hyacinth (kachury) has been of late years a big pest. Attempt to remove the water hyacinth is futile without the discovery of any scientific method for its destruction.

This committee is not aware of any steps having been taken by the Government to improve the fertility of the soil.

Some seeds and manures are sold by the Agricultural Department of Government. But that is very inadequate. Seeds and manures are sold at agricultural offices which are few and far between. Cultivators of the interior of the district seldom get any advantage of such seeds and manures.

Q. 74. This committee is not aware of any provisions of these Acts being taken advantage of.

Q. 75. Not known to the public.

Q. 76. This committee has got no information as to since when salami is realised. This committee is not aware of any way in which Government has utilised any portion of salami money.

Q. 77. The general policy of the Government from the time of the East India Company and not the land system of Bengal, is responsible for the uneconomic condition of the raiyats. By raiyat is meant the cultivating raiyats.

In olden times India was known to be the "Gorgeous East" when India was not only an agricultural country but India was rich in trade, commerce and manufactures. India's wealth and property attracted the attention of many eastern and western countries including Great Britain. Vast quantities of piecegoods manufactured in India were exported by the Arabs, the Dutch, the Portuguese and other European nations who competed with one another for this lucrative trade with India. Misfortunes began with the advent of British Dominion in India. British manufacturers in India to give an impetus to British manufactures repressed Indian industry. Their main policy was to reduce India to a country of raw produce and to make it subservient to the manufacturing industry of Great Britain. Thus cotton industry, silk industry, cutlery and other industries dwindled. Santipur, Dacca, were famous for fine cloths, Berhampore for silk industry. Bengal weavers could not compete with Lancashire manufacturers. Marwaris and Bhatias became big importers of foreign cloths. Heavy tariffs and excise duties played an important part in discouraging indigenous industries. For these and other causes Indian industry and manufactures dwindled and India was reduced to a purely agricultural country and Bengal is no exception. Thus artisans and industrialists, all more or less, took to cultivation. Indigo cultivation was stopped and the imported coolies from the provinces and hilly and jungli tracts settled in Bengal and took to cultivation. Thus heavy pressure was brought to bear upon agricultural land in Bengal. Bengal raiyats mainly depend on land, their subsidiary income is not substantial. Land is the only means of subsistence of Bengal peasants. They do not cultivate lands for profit but only for subsistence. The raiyats are not prosperous. But their uneconomic condition is not due to the Bengal land system. Bengal raiyats are better off than those of other provinces where there is no Permanent Settlment. The Government Industrial Department takes no steps to educate the raiyats in industries by application to which they can derive greater benefit than by mere sale of raw materials. Cottage industries are wanting amongst raiyats. Facilities for cottage industries are wanting.

So it is the Government policy rather than the land system in Bengal that is responsible for the uneconomic condition of Bengal raiyats.

The following may be suggested as a modification of Government policy:—

(*a*) Re-opening of dead and dying rivers in Bengal.

(*b*) Increase of marketing facilities by construction of more village road and opening water communication in the interior of the districts.

(*c*) Affording facilities and help for cottage industries with the help of electric energies for the raiyats during slack seasons.

(*d*) Wealth and property of Bengal peasants depends most on jute cultivation. Jute forecast is taken and published by the Government. Jute millowners take advantage of this forecast. It is they who regulate and control the price. Peasants, poor as they are, cannot stock jute for season of high price. Jute workers enter into advance contracts with the millowners and they make purchases in dull season and sell when the price rises high. The producers do not get advantage of high price.

If the Government fix a price and the middlemen, i.e., the brokers, are restrained from buying at a lower price then the producers can get full value for their labours, otherwise on account of their poverty, they are compelled to sell at whatever inadequate price the buyers offer, much to the deteriment of the interest of the producers. The economic condition of the peasants may thus be improved.

(*e*) Rural banks should be established to help the agriculturists in time of need by loans at a reasonably moderate interest as by the Bengal Agriculturist Debtors Act the private moneylenders have well nigh been ruined.

Vide also answers to question 80.

Q. 78. This question cannot be answered without an economic survey.

Q. 80. The suggestions are good. To these may be added.

(1) *Sanitary improvement.*—Bengal of late has become a hotbed of malaria, smallpox, tuberculosis, beri-beri and other epidemic diseases. If better preventive sanitary measures be not adopted, the people will be decimated in large numbers and the survivors will be weaker day by day and economic condition will necessarily be on the wane.

Hospitals are necessary but prevention is better than cure. So preventive measures should be adopted.

(2) *Density of population.*—If the following figures be correct, viz.:—

	Per square mile.
In Bengal	... 579
Madras	... 297
Bombay	... 143
United Provinces	... 414
Bihar and Orissa	... 340
The Punjab	... 184
Great Britain	... 485
France	... 184
Netherlands	 544
Denmark	... 194
Germany	... 332
Italy	... 313
Belgium	... 654
United States of America ...	... 32

Then the density of population in Bengal is only next to Belgium.

If density of population has any effect upon the economic condition of the people, as really it has in an agricultural country where the people depend solely on land, attempt should be made to lessen the density or to divert the people as best as possible from agriculture to industry.

Q. 81. Yes, pressure of population is one of the causes of the poverty. Not possible to say without an economical survey, what percentage of population is surplus.

Q. 82. Yes, introduction of industries, small or large, coupled with amendment of tariff giving protection against foreign imports including British imports and encouragement of exports of finished goods and abolition of excise duty or reduction of excise duty on indigenous products.

Q. 83. Bengal Agricultural Debtors' Act should be abolished. Agricultural banks or rural banks in every union should be established. That will be a check upon the private moneylenders charging exhorbitant rate of interest. Absolute power of sale of raiyati holding

should be curtailed at least to the extent of half the holding otherwise raiyats will be reduced to the position of day labourers.

Q. 84. Without any definite data it is not possible to answer the first part of the question.

As to second part, *vide* answer to question 83.

Q. 86. Bengal Agricultural Debtors Act, Act VII of 1936, was passed in April 1936. It has been in working order only for a short time of less than 3 years. The Debt Settlement Boards have not been able to deal with the problem of agricultural debts. The provisions of the Act and the rules made thereunder are almost impracticable and inconsistent, e.g., when a debtor makes an application there may be a settlement of debts in absence of the creditor if he does not appear on notice. But if the creditor applies his application shall be dismissed if on notice the debtor does not appear—section 13, clauses 2 and 3 of the Act.

Q. 87. Establishment of agricultural banks in each union is commendable. *Vide* also the answer to question 83.

Q. 89. Yes, too costly, specially for the landlords.

Landlords have to pay for separate court-fee and separate process-fees for tenants of the same village and separate vakalatnamas. But the cases may be tried analogously and the tenants shall have to bear all costs in case of separate decrees. Thus the litigation cost is prohibitive.

Reply by the Hooghly Landholders' Association.

Q. 1. This description is practically exhaustive of the duties and obligations cast on the "zamindars, independent taluqdars, and other actual proprietors of land" by the Permanent Settlement Regulation (Regulation I of 1793), except that the zamindars, etc., were not enjoined to extend to their subordinate tenants the *same generous treatment*, which they were to receive from the Government. They were enjoined to "conduct themselves with *good faith and moderation* towards their dependent taluqdars and raiyats". Here "good faith" means nothing more or less than honest dealing, and "moderation" is antithesis of violence, extortion, etc. We do not know what the framer of this question meant by the words "the same generous treatment". If by these words he means fixity of rent and permanency of tenure our answer must be emphatically "no". The Government of the day did not intend the zamindars, etc., to grant leases to all tenants permanently or for an amount of rent fixed for ever. (*Vide* section 52 of Regulation XLIV of 1793.)

In our opinion the "Permanent Settlement" did not take away any of the existing rights of the tenants. Rather the tenants were placed in a better position after the Permanent Settlement Regulation and Regulations passed on the same date. The rights of dependent taluqdars and certain classes of tenants were given statutory recognition just as the rights of the landholders of the day. And all tenants, generally speaking, were promised protection by the State against the oppression of their landlords. It is superfluous to describe how severe this oppression was in the early days of the East India Company or earlier still, during the decadence of the Moghul rule. We can go so far as to say that the Permanent Settlement Regulation has been the "Magna Charta" of the raiyats and subsequent Regulations and Acts are simply confirmations and practical fulfilments of the promise of protection to the raiyats proclaimed therein. In fact Article VII of the Permanent Settlement Regulation has been the genesis of all legislations in favour of the raiyats, sometimes to the great detriment of the landholder's income and substantial encroachment on his rights.

Q. 2. By the Permanent Settlement the zamindars, who were known to be "proprietors of land" by custom, were formally recognised to be absolute proprietors of the soil, subject to some reservations one of which being that the State would from time to time control the relation between the landlord and his tenants. Regulation VIII of 1793 passed on the same day as the Permanent Settlement Regulation (Regulation I of 1793) by the same high authority, accordingly laid down the

rights of some classes of tenants ("istimrardars" and "dependent taluqdars"). The same regulation (Regulation VIII of 1793) also declared that all lands belonging to the landholder, except those held by the above mentioned tenants, could be let out by him in "whatever manner" he might "think proper", subject, of course, to some statutory restrictions, mentioned in the same Regulation. If the zamindar laid down in his "patta" that the land was not to be transferred by the tenant, as generally the zamindar did, until very recently, he had every right to refuse his tenant's transferee admission into his lands. Thus he had the power to choose his *tenants.*

The zamindar by contract with his *tenant* at the time of *admitting* him into his lands by a lease *(patta), could* lay down whether the land was leased for homestead purposes or for agriculture or for fishery rights and so on. In fact the Permanent Settlement Regulation did give him the power to regulate the usage of land to the economic interest of his own lands, which practically coincided with that of his own province. For it is superfluous to point out that if lands of every individual landholder were improved the lands of the whole province would be improved also.

A great part of the province was full of jungles and was uncultivated, when the Permanent Settlement was made. The Government of the day hoped that as a result of this settlement, wherein formal recognition of landholders as proprietors of the soil was made, the landholders would "exert themselves in the cultivation of *their* lands under the certainty that they will enjoy exclusively the fruits of their own good management and industry". The language of the Regulation is so clear that there can be no shadow of doubt that the landholders were vested with the authority of improving *their* lands and of regulating the usage of the same to their own economic interest which practically meant the economic interest of the province.

Q. 3. At the time of the Permanent Settlement lands were, for the most part, full of jungles and uncultivated large areas of swampy lands lay fallow. Road communications were in a very unsatisfactory condition. The zamindars by investing their huge capital and labour constructed roads, bridges and embankments, excavated tanks, reclaimed jungles, and swamps, and by their judicious management extended and improved agriculture and thus increased the wealth and prosperity of the country beyond expectation. Under the security assured by the Regulation of 1793, landlords let loose their capital for investment in lands and tried hard to increase the economic productivity of the soil. Schools, colleges, libraries, hospitals and charitable dispensaries sprang up in different parts of the country. All these owe their origin and existence to the munificence and welfare activities of the zamindars who brought new light to the province and were very

active and powerful factors in developing the prosperity of the country. Fine arts, architecture, literature, and music, all flourished under their patronage. Huge religious endowments were made by them. They with their many-sided activities became natural leaders of the country. In fact, Bengal of to-day is their creation.

In this connection the report of the Commissioner of the Burdwan Division, dated the 20th October 1883, is worth considering. It runs as follows:—"The Bengal of to-day offers a striking contrast of Bengal of 1793, the wealth and prosperity of the country have marvellously increased beyond all precedents under the Permanent Settlement .....a great portion of this increase is due to the zamindari body as a whole and they have been very active and powerful factors in the development of this prosperity."

We think that zamindars have ably performed the functions expected of them under the noble Regulations of 1793, until their powers had been crippled by the tenancy legislation and its subsequent amendments. The tenancy legislation has widened the power and extended the rights of tenants making constant inroads upon the statutory rights of the zemindars, who have now become mere rent-receivers. It is well-known that demands for tenancy legislation originally came from landlords for being vested with effectual powers for speedy realisation of rents, but it is regrettable that their fair and legitimate claim has been deliberately ignored by the Act. Since the passing of the Bengal Tenancy Act, legislation after legislation has been introduced to grant greater rights and privileges to the tenants at the expense of the landlords. It must be admitted that this extension of privileges does not cast any corresponding obligation on them—not even the obligation of improving their lands or cultivation. Landlords, who have the greatest interest in the improvement of land of which they are the actual proprietors, have no right to question if cultivation is neglected and lands are left fallow. It is enough for a landlord if he gets rents. Landlords have got to perform their obligations to the Government with uncertainty of collection. The recent legislation has palsied their hands, snapped the tie of landlord-tenant relation and there is none to perform the function of landlordism.

Q. 4. It is not correct that the Permanent Settlement converted the zamindars to actual proprietors of the soil from mere revenue-collectors. There were zamindars long before the Permanent Settlement. The Hindu system of jurisprudence was conducive to the growth of the zamindars, as their rights were hereditary. During the Muhammadan rule, large, rich and powerful zamindars came into existence, as even then, the Hindu principles were dominant.

Mr. Shore in his Minutes of the 2nd April 1788 and 18th June 1789, says: "The origin of proprietary and hereditary rights of the zamindars

is uncertain, that in Akbar's time the zamindars of Bengal were numerous, rich and powerful, that they were not of his creation and probably existed with some possible variation in their rights and privileges before the Muhammadan conquests in Hindusthan" (page 40, Field).

Hastings unwilling to deal with the abstract question of zamindars' right of property said, "I mean not here to enter into any discussion of their (zamindars') fact and form, as applied to their situation. Our Government.....has admitted the opinion of their rightful proprietorship of the lands".

The Hon'ble Sir George Campbell traces their origin to,—(1) old tributary Rajas, (2) native leaders of Hindu clans, (3) adventurers who rose to power and subsequently came to terms with the Government agreeing to pay revenue or tribute for the tract of the country they controlled, (4) Revenue Collectors who during the troubled times and long continued weakness of the provincial Government gained their footings as hereditary proprietors, and (5) enterprising land-speculators who during the decadence of the Moghul Empire, taking contracts of paying revenues came to power as Farmer Generals and handed their rights down to their successors.

The "Ain-i-Akbari" says that there were numerous rich and powerful zamindars in Bengal. "In the 17th century the territorial magnets" and the great zamindars of Bengal "became independent." In the 18th century vigorous attempts were made to level down these zamindars whose hereditary and proprietory rights were established beyond dispute." Sir William Hunter observes,—"Bengal zamindars at the Permanent Settlement represented heterogenous results of two sets of influences: the long continued weakness of the provincial Government which made for their independence down to the end of the 17th century; and the stringent fiscal policy of Murshid Kuli Khan of the early part of the 18th century, followed by the farming system of East India Company from 1765 to 1789 which tended to reduce the zamindars to mere agents for the collection of the land-tax."

In 1793 when the Permanent Settlement was made with this "Composite body of zamindars" their rights in soil were recognised by the Regulation declaring them as proprietors in perpetuity and placed them on a uniform legal basis. As regards conflicting and contradictory statements as to the rights and claims of the Bengal landlords prior to the Permanent Settlement, it should be borne in mind that various historians "had in their minds certain classes of landlords to the exclusion of the others."

Q. 5. The annulment of the Permanent Settlement would be a serious breach of the solemn pledge given by the then Government of

the Hon'ble East India Company to the zamindars. The State demand having been fixed at the 9/10ths of the gross rental of the province, the zamindars were put into a very precarious position with the scanty income of 1/10th left to them. Many houses fell down to meet the State demand. It was then very risky to buy zamindaris, but in spite of this many speculative persons hazarded themselves in the task. Zamindars had to invest their capital and labour for increasing their income. The uneconomic lands were brought under cultivation. Their ingenious investments, strenuous efforts, untiring energy increased the productivity of the soil and made land profitable. It was their capital and intelligence and labour, that have converted a very large portion of the province (estimated "at one-third by Lord Cornwallis, at one-half by others and by some at two-thirds of land, capable of cultivation", lying waste) into rich cultivated areas, giving employment and living to millions of their countrymen. The present day zamindaris were built by the zamindars themselves. All this was done on the solemn pledge given to them in the Permanent Settlement—a pledge solemnly declared by the Governor-General of India on behalf of the Court of Directors under the orders of the British Parliament. We think such a pledge is inviolable and its annulment on any ground would be to strike at the root of the fundamentals of equity and justice.

We do not think that it can be seriously contended that tenants were not parties to the Settlement. The Settlement was concluded by the Government on their own behalf and on behalf of the tenants as well. The Government being the custodian of rights of all people and specially those, who are most helpless by situation, they made provisions in the Permanent Settlement Regulation for safeguarding and protecting the rights and interests of dependent taluqdars, raiyats and cultivators.

Now, let us examine the question whether the Permanent Settlement has permanently crippled the financial resources of the country. Nobody can disown the fact that the growing prosperity of the people is the best wealth of the Government. If the State is found to lose in land revenue it will be found that the gain is immensely high from stamps, customs receipts and income-tax. Permanent Settlement is responsible for the huge income of the Government under these heads. The income-tax in Bengal collected in 1928-29 was more than 6 crores. "An analysis of income-tax assessment made in 1920 at the instance of Meston Committee showed that over 90 per cent. of the income-tax collected in the provinces came solely from Bengal". "The Judicial statistics would show that out of the total number of civil suits nearly 60 per cent. are rent suits and 90 per cent. of money suits are for kistibandi (for rent). Landlords are responsible for the huge figure of the Stamp Duty," which was "Rs. 3,55,00,000 in 1928-29". "Nearly 24 crores are collected from the ports within the territorial jurisdiction of

Bengal". This shows the great purchasing power of Bengal. The purchasing power of people means the taxable capacity of the province. It is the Permanent Settlement which contributes to the comparative prosperity of the people which is a great asset to the Government. The table given below will show high contributions of Bengal under income-tax and customs receipts—

(In lakhs of Rupees.)
In 1928-29.

	Income-tax	Customs.
"Bengal ...	... 615	1,850
Madras ...	... 131	469
Bombay ...	... 317	1,921
U. P. ...	... 90	...

Bengal's contributions to the Central Government is the highest of all the other provinces. In 1925-26 Bengal contributed "more than 26 crores under various heads such as income-tax, customs, excise, etc., whereas Madras with a population nearly the same as Bengal contributed 6 crores only; Bombay 23 crores and U.P. more than 1 crore only. If we examine the incidence of taxation per head of population in India, "we find that Bengal is the most heavily taxed province in India excepting Bombay which is a manufacturing province and not an agricultural one like Bengal"—

	Rs.	A.
"Bengal	7	8
U. P.	3	8
Madras	5	11
B. & O.	1	12
Punjab	6	6
Bombay	19	11
C. P.	4	7
Assam	3	13"

It is clear from the facts stated above that inelasticity of land revenue in Bengal is amply compensated by income from various other heads which is due to the affluence of the people and this affluence is due to the measure adopted by Lord Cornwallis,— ".....in Bengal Permanent Settlement has

benefited the whole agricultural community; the entire peasant population shares the benefit and is more prosperous and resourceful on account of the measure.....in Bengal it has afforded a protection to agriculture which is virtually the only means of nation's subsistence. .....It has saved the nation from fatal and disastrous famines." (*Economic History of British India* by Mr. R. C. Dutt.)

The real state of the country at the time of the Decennial Settlement as compared with the improved condition brought about by the Permanent Settlement has been ably described by Mr. Pattle as follows:—

"The country brought under the Decennial Settlement was for the most part wholly uncultivated. Indeed such was the state of the country from the prevalence of jungles infested by wild beasts that to go with any tolerable degree of safety from Calcutta to any of the adjacent district, a traveller was obliged to have at each stage four drums and as many torches; besides, at this conjuncture, public credit was at its lowest ebb, and the Government was threatened with hostilities from various powerful Native States. Lord Cornwallis's great and comprehensive mind saw that the only resource within his reach in this critical emergency was to establish public credit and redeem the extensive jungles of the country. These important objects, he perceived, could only be effected by giving to the country a perpetual land assessment made on the gross rental with reference to existing productiveness and therefore promising to all those, who would engage, the encouragement of an immense profit from extending cultivation. Admitting that the sacrifice was very great, I think it cannot be regretted when it is considered what difficulties it conquered, and what prosperity it has introduced and achieved. For my part, I am convinced that our continuance in the country depends on the adoption of that measure, and that our stability could not otherwise have been maintained unaltered."

The following is the considered opinion of Sir John Anderson, at St. Andrews Day Dinner on the 30th November, 1932,—"It is, I believe, often said that Bengal would be all right if it were not for the Permanent Settlement. Such a comment does not seem to me to be particularly relevant but let us examine the point. The Settlement of 1793 was not the outcome of the grasping and short-sighted policy of a parochially-minded provincial Government but was deliberately imposed by the highest authority. Incidentally it was the same authority who announced that it was "Fixed for ever". No doubt the provincial Government would have been able, had there been no Permanent Settlement, to derive a larger revenue from the land; but in that case it would have been impossible under conditions prevailing to-day to collect the full amount of the tax on jute".

Thus it is clear that the Permanent Settlement has not crippled the financial resources of the country. It is evident that Government may gain some greater income from land revenue by abolition of the Permanent Settlement, but the huge income which percolates through the various other sources as mentioned above is sure to dwindle.

Q. 6. The framers of the Permanent Settlement Regulation expected that the zamindars would extend cultivation and bring uncultivated areas under cultivation. This expectation has been amply fulfilled.

Zamindars have invested their capital in reclaiming lands and swamps by clearing jungles, by taking under hand and finishing drainage schemes, by erecting embankments, by excavating tanks for the purposes of irrigation and drinking. Many of these improvements have to be maintained by continued recurring expenses. Moreover, zamindars have introduced new crops. We cannot speak for other districts, but for our district (the district of Hooghly) we can speak with confidence that potato, sugarcane, jute, etc., were introduced by zamindars. And no one, who has any knowledge of the prejudices of a Bengali tenant, can know how difficult it is to introduce a new crop.

It is not possible to lay down exactly to what extent each of the three factors, mentioned in the question, have contributed to the increase in the area brought under cultivation. All that we can say with confidence is that the "initiative and the pecuniary or other assistance of zamindars" have played the greatest part in the extension of cultivation in Bengal.

(*i*) Increase of population may foster demand for lands, but in most cases it is the landlord, who has induced tenants to reclaim waste lands on condition that they would enjoy the same for some years free of rent, so that they might be amply compensated for their labour and some outlay of capital. Reclamation of small areas was thus the outcome of enterprise of tenants, but not the reclamation of big areas, which we strongly maintain, has been due to the enterprise of the zamindars and other landholders. Sometimes tenants from other provinces have been brought down to settle in Bengal. The landholders in our district (Hooghly) have even now to bring Sonthals from outside and settle them on their lands in order to keep them in cultivation.

There is no reliable data on the basis of which it can be ascertained to what extent large areas of land were brought under cultivation by the (*ii*) enterprise of tenants and (*iii*) by the initiative and the pecuniary or other assistance of zamindars.

Q. 7. It is not possible to ascribe how much of increase in valuation is due to each of the three causes mentioned in the question. The

three causes are practically dependent on each other, though we are inclined to give most credit to the good management of the zamindar. It is often very rare that any enterprising tenant or group of such tenants approach the landlord on his or their own initiative to reclaim waste lands of his estates and increase cultivation in the same. The landlord has to persuade the tenants to do so. He has got to finance them for the purpose in such cases. The capital comes from the landlord and the labour from the tenant. The landholder has sometimes to lease the land free of rent for a period and then assess rent at a gradually increasing scale not harassing to the tenants. Enhancement of rent naturally follows improvement of lands.

Q. 8. We fail to understand what the framer of this question means by the words "the same equity and generous treatment." We have criticized the words "the same generous treatment" in our answer to question 1.

Zamindars have always treated their tenants with moderation and kindness. In times of big calamities (such as Damodar flood, etc.), they have remitted their tenants' accumulated arrears of rent and have advanced them loans. They have always (even in these days of great economic distress) made remissions of interest and even rents. They have always granted easy instalments for payment of arrears of rent —instalments easier than what the Statutory Debt Settlement Boards can and do grant. The zamindars have always protected their weaker tenants from the oppression of the more powerful—in fact such protection has become proverbial in Bengal. Whenever there has been famine the zamindar has come to the relief of his tenants. In times of epidemics zamindars have been known to have distributed medicines to their raiyats. Schools and charitable dispensaries have always received generous contributions from landholders.

If everything done by a zamindar is taken into account we cannot but hold that the zamindar has not failed to do what was expected of him.

Q. 9. The question is divided into three parts. As regards the first portion of the question we have discussed the same subject in our answer to question 6.

As to the second part of the present question our answer is as follows:—

Extension of cultivation in their zamindaris was not imposed as a *duty* on the zamindars by the Government of Lord Cornwallis. The Government of the day hoped and expected that as a result of the Permanent Settlement extension of cultivation would be undertaken by the zamindars, and we are of opinion that this expectation has been amply fulfilled.

As regards *duties* cast on zamindars the Permanent Settlement Regulation clearly laid down the following:—

(1) To discharge the revenues at the stipulated periods without delay or evasion.

(2) To conduct themselves with good faith and moderation towards their dependent taluqdars and raiyats.

(3) To enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents for them.

The only complaint which the tenants can make is *that sometimes* officers and servants appointed by landholders do not deal honestly and kindly with them. It must also be said to the credit of landholders that in most cases as soon as any such complaints reach them, they at once take necessary steps and give prompt relief to their tenants.

Much is now made of the "absenteeism" of zamindars. If by the word "absenteeism" is meant non-residence in one's zamindari, all zamindars would plead guilty to the charge, for it is physically impossible for a zamindar with his extensive properties scattered over a district or sometimes more than one district, to be present in each mauza of his zamindari. Even the framers of the Permanent Settlement did not imagine this to be a necessary duty. Moreover in these days of good communications—railways and bus routes and post offices —any tenant can reach the ears of his landlord without much trouble or expenditure. Much of the evil effects of "absenteeism" has been minimised by these factors of the present age.

We must admit that to some extent failure of enlightenment and leadership in rural area is due to absence of zamindars, who in their turn, by losing close touch with the peasantry, are liable to some extent to be ignorant of the real grievances of the raiyats.

The Bengal Tenancy Act and other pro-tenancy legislations have gradually so much encroached on the rights and privileges of the landholder and so much crippled his powers for doing good to agriculturists that the presence of any landholder in his estate will not bring about the expected results. "The real cause of absenteeism is not the apathy of zamindars but the transference of their powers to a more unimaginative, unsympathetic community."

Q. 10. It is a well-known fact that the Permanent Settlement was not sought by the zamindars; it was thrust upon them for "historical and fiscal reason." In course of a few years the economic necessities led to subinfeudation. Thus, profits of the landholders are being distributed amongst a large number of middleclass tenureholders of various grades. "Diffusion of ownership of the property has broadened the basis of capitalism" and has protected it "against the massing in hostility to it of all the remaining elements of the society."

Thus we find that Bengal's middle class people who are really the backbone of the society have a direct stake in the system. The Regulation of 1793 did not leave tenants at the mercy of the zamindars. The Governor-General-in-Council reserved the right of enacting "such regulations as he may think necessary for the protection and welfare of the dependent taluqdars, raiyats and other cultivators of the soil." Certainty of revenue from the land was a great boon to the Government. Owing to the fixity of the land revenue under the Permanent Settlement Regulation income from stamp duty, income-tax and customs receipts is enormous. If we examine the incidence of taxation per head of the population "we find that Bengal is the most heavily taxed province excepting Bombay which is a manufacturing province and not an agricultural one like Bengal." The taxable capacity of the province is dependent on the purchasing power of the people, that is, on the affluence of the people. There is no doubt that the Permanent Settlement was in the economic interest of the people and the Government and for the greatest good of the largest number and not a one-sided measure adopted in the interest of one particular class of people. In this connection we may refer to the comparative effects of the Bengal Settlement of 1793 and William Pitt's Settlement of 1798 of England as shown by Mr. R. C. Dutt in *The Economic History of the British India* "..... in England the settlement benefited the landed class only; in Bengal the settlement benefited the whole agricultural community; the entire peasant population shared the benefit and is more prosperous and resourceful on account of the measure. In England the settlement limited the tax on one out of many sources of the national income; in Bengal it has afforded a protection to agriculture which is virtually the only means of nation's subsistence. In England it precluded the State from drawing a large land tax to be spent in the country for the benefit of the nation; in Bengal it has precluded from increasing the annual economic drain of wealth out of the country. In England it saved the landlord class from added taxation; in Bengal it had saved the nation from fatal and disastrous famines."

We may here also point out the advantages which the Government has reaped from the Permanent Settlement of Bengal—"It is not an exaggeration to state that Bengal, with its Permanent Settlement, yielding a steady and unvarying income from the soil enabled the British nation to build up their Indian Empire. Bengal paid the expenses of ambitious wars and annexations in Northern and Southern India. Madras and Bombay never paid the total cost of their own administration during these years. Great Britain never contributed anything towards the acquisition of India" (Mr. R. C. Dutt).

Q. 11. This question postulates that the condition of the raiyats was better before the Permanent Settlement and that it has been

daily becoming worse after the Permanent Settlement. Nothing can be farther from truth. The burden of the raiyat, as suggested in the four clauses of the question, was more grievous before the Permanent Settlement. History tells us so.

Now let us examine the four grounds on which the Permanent Settlement is said to have been assailed—

(*i*) Nowhere in Bengal the rent of an occupancy raiyat exceeds 6 per cent. of the gross produce. So it cannot amount to 80 per cent. of the net profit of the said raiyat. The zamindar, if a hierarchy of tenureholders intervene between himself and the raiyat, gets much less than 6 per cent. mentioned just now.

(*ii*) The economic necessities of the time combined with the unsettled state of the country and bad revenue policy of the Government did encourage subinfeudation among landholders. But this, we beg to submit, has been more to the good of the country and the raiyat than otherwise. Subinfeudation among tenants (i.e., the system of under-raiyats) is not the creation of the Permanent Settlement, but that of the pro-tenant legislations like the Bengal Tenancy Act, which created a class of petty landlords, who are in fact more oppressive than the landholders themselves.

(*iii*) Raiyati rent was always enhanced or reduced according to circumstances. The Permanent Settlement did not give any impetus to such enhancement. The growth of population, increase of income from agricultural lands for various reasons, especially improvement in the world trade, etc., raised the market value of raiyati lands and consequently the rent for the same. The Bengal Tenancy Act made clear provisions for such increase and the landholders have taken advantage of that provision of the law. But they cannot act arbitrarily. They have rather always kept an eye to the fact that the rent be not excessive. Numerous cases can be cited where landholders have not increased rents for more than 30, 40 or 50 years out of sympathy for their tenants.

(*iv*) In our opinion it is not the subinfeudation among landholders that is harassing to cultivators, but the subinfeudation under occupancy raiyats, which is the direct effect of the pro-tenant legislation like the Bengal Tenancy Act.

Hence we conclude that the Permanent Settlement cannot be held responsible for the miseries of the cultivators as suggested by the question.

Q. 13. We strongly maintain that the Government has not lost anything by the Permanent Settlement. Firstly, land revenue may have lost elasticity but it has gained certainty. Even during these

hard days of economic depression more than 83 per cent. of revenue of the permanently settled area in Bengal has been realised as opposed to 48·25 per cent. of the collection from the Government estates in the year 1936-37. In the United Provinces and other provinces, where the settlement is made on temporary basis the Government has got to grant, during bad years, remission of rent, which is unknown in Bengal (permanently settled areas).

Collection charges of the Government would amount to a pretty big sum, if the Government cancels the Permanent Settlement.

The fancied loss of the Government in revenue is amply compensated by stamp duty on rent suits, etc. (due to the effect of the Permanent Settlement) and income-tax on middle class people of Bengal and customs duty (including export duty on jute). In Bengal the stamp duty amounts to more than 3 crores; income-tax more than 6 crores and customs duty more than 18 crores—taxes on these heads being much less in other provinces. We are of opinion that the comparative affluence of the people of Bengal and her taxable capacity is due more to the Permanent Settlement than anything else.

The revenue of the province can be augmented by ways more than one. And a Government supported by a big majority can do so without impunity. But it is a fact that the taxable capacity of the people has got a limit and taxation without any corresponding benefit to the people must lead to disaster.

We think that the methods suggested in the question to increase revenue will neither be fair and just nor expedient. We oppose all the methods suggested on the following grounds:—

(1) In our opinion methods (*i*) and (*ii*) would not produce the desirable results, for the zamindari system and the Permanent Settlement would have to be substituted by collection from the raiyats directly by the Government. Taking note from the collection charges of rupees one crore and a half in Madras for collecting land revenue of 5 crores and 13 lakhs from 123,541 sq. miles compared with no collection charges on collection of rupees 3 crores from 46,000 sq. miles in the permanently settled area in Bengal, we may safely conclude that nearly ¼ of the revenue will be eaten up by the Revenue Department.

(2) Moreover it is only just and equitable that the Government will have to compensate the landholders of all grades up to the occupancy raiyats for expropriation of their rights, which will mean a very great substantial increase in the amount of national debt and drain on the resources of the province.

(3) No good Government should be jealous of the prosperity of its subjects, for it is an asset to the State. Taxable power of the people depends on its prosperity. We have shown just now that the capacity of the people of Bengal to pay a very big amount of income-tax, customs duty and stamp duty—bigger than most of the other provinces, which pay less than Bengal to the Central Government, shows unmistakably the benefits of the Permanent Settlement.

(4) It is often forgotten how much of the burden of arrears of rent of raiyats are borne by zamindars and other landholders. In these days of economic depression arrears of rent of most of the tenants of our district amount to no less than three years' demand. Examples of relieving their tenants with long-term kistibundi for accumulated arrears are not uncommon. The raiyats will not get this kind of relief in the hands of the Government.

(5) Abolition of the Permanent Settlement would mean ruination of the middle class of Bengal, the glory of the province, for the profits derived by landholders from lands are divided among the members of a hierarchy of landholders, with the zemindar at the top and tenure-holder just above the cultivating raiyat at the bottom. And most of these last class of landlords belong to the middle class of Bengali society.

(6) In spite of what the traducers say, the landholders still contribute a considerable portion of their income for charitable purposes and improvement of villages. As soon as the landholders will lose touch with the raiyat and become annuitants of the State, they will feel very much unwilling to continue such charities.

As regards income-tax on agricultural income we venture to say that it will be a deliberate breach of pledge given by the Government at the time of the Permanent Settlement.

At the time of the Permanent Settlement the zamindars and other landholders (with whom the Permanent Settlement was concluded) were given to understand that "they would enjoy exclusively the fruits of their own good management and industry and that *no demand would ever be made* upon them or their heirs, or successors, by the present or any future Government, for an augmentation of the public assessment *in consequence of the improvement of their respective estates*". (Paragraph 3 of Article VI of Regulation I of 1793). When the Permanent Settlement was made the zamindars had a bare profit of 10 per cent. They and their successors-in-interest have improved their lands and are now enjoying the fruits of that improvement. The Government cannot, without going back on their words and being guilty of breach of a solemn pledge, assess them with an income-tax on the profits thus acquired.

We are aware that the Income-Tax Act of 1869 did not exempt agricultural income but we are strongly of opinion that it was imposed *ultra vires*. The representatives of the landholders supported this tax at that time simply because it was a temporary measure and was enacted with the ostensible purpose of stabilising the finances after the Sepoy mutiny.

We do consider that the road and public works cesses are also imposed in contravention of the pledges of the Permanent Settlement for they are in the nature of taxes on agricultural income.

Another defect of income-tax on agricultural income would be its assessment on landholders and exemption of raiyats, for most of the raiyats would not have the proper qualification for such taxation. This "looks like a punitive measure and has no sanction in the canons of taxation."

If the said tax is imposed in the shape of a cess like the road and public works cess and everyone having any connection with the land is compelled to pay the same, the burden will be too heavy on many agriculturists and raiyats and will prove like the last straw on the camel's back, for Bengal is the most highly assessed agricultural province of India.

Q. 14. We do not advocate abolition of the zamindari system or the Permanent Settlement. Still if the Government think otherwise we venture to say that compensation should be given to zamindars. Our suggestion is that the zamindars should be given G. P. Notes or Bonds; the interest derived from which will equal the average annual nett income of a zamindar, calculated after computing his nett income from his estate for 20 years ending in 1930-31.

The consequent increase in national debt would be a monstrous sum. The nett income of the *landholding community* in Bengal has been calculated to be 12 crores of rupees. The face value of papers if carrying 5 per cent. interest would consequently be 240 crores and if carrying 3 per cent. interest would be 400 crores.

Q. 15. We do not advise the bonds to be redeemable, for in that case the Government will have at one time—after the lapse of a period, however long it is—to redeem them at considerable expense, which may prove to be prohibitive.

As regards the rate of interest we suggest 5 per cent. (income-tax free).

Q. 16. This question read with question 21 seems to indicate that the term "zamindari" here has not been used in the loose sense of the term (viz., all landholders including tenureholders). Hence, we do not discuss here the effect on the social structure of Bengal, if the State purchase of landed properties, including tenures, is made.

To our mind the effect of the abolition of the present zamindaris only on the social structure of Bengal will be as follows:—

(1) The tenureholders, immediately after the rank of zamindar, will be elevated to the position of the zamindar and will have to pay as revenue the same amount, which he used to pay as rent to his superior landlord, the zamindar.

(2) Tenureholders of the 2nd, 3rd and other degrees will be promoted to one degree in social and legal position. But this advancement will not be felt very much in society, because in our society no such distinction is attached to the different grades of landlordism. Of course big zamindars like the Burdwan Raj, Natore Raj, etc., have always been held in special veneration because of their wealth, power, munificence and aristocracy and because of the origin of their zamindaris which can be traced to the pre-British days.

(3) The condition of the raiyats will practically remain the same unless they come directly under the Government (in case they were before directly under the zamindar and not under any tenureholder). But this dignity will be more than balanced by the troubles of collection by certificate procedure.

(4) The zamindars having retired from their business by becoming annuitants of the State, will cease to take any interest in land and welfare of raiyats and other country people.

(5) Consequently their grants to public and private charitable institutions will be stopped. This will be very badly felt by the people of Bengal.

(6) Some of the zamindars may invest money in other businesses, but being without the necessary training for the same, may be involved in financial loss.

(7) Cottage industries may receive a setback for some time, because it was the aristocratic houses of zamindars, that were great patrons of fine arts and cottage industries.

(8) Most of the zamindars are involved in heavy debts. So that most of the compensation money that will be given to them will be seized by moneylenders. Unless the Government gives them sufficient protection by making legal provision for slow liquidation of their debts, the consequence will be that many aristocratic houses will be ruined. Even their families will perhaps be exterminated.

(9) No tenureholder would like the idea of his zamindar being expropriated as his connection with the zamindar is nearly akin to family relations.

Q. 17. If the zamindari system is going to be abolished it is illogical and impolitic to exterminate the highest class of landholders and to foster the institution of landlordism by preserving other classes. Landlordism should be abolished altogether, if the Permanent Settlement and the land system based on the same is thought to be an unmitigated evil and a mistake committed by the Government.

It is our confirmed opinion that abolition of landlordism will not lead to any advantage. Tenants of estates purchased khas by the Government at the recent revenue sales do not find themselves better off than when they were under private zamindars.

Q. 18. The number of revenue officers will have to be increased. Perhaps a larger Revenue Board with one member for each division of the province will have to be created. Under him will have to be created grades of revenue collectors from the Collector of a district to that of a mauza with innumerable peons and servants.

The cost of administration of this enlarged Revenue Department of the State would not amount to less than 25 per cent. of the gross collection, which means it will equal to nearly 4 crores of rupees.

Q. 19. It is doubtful whether the raiyats under private landholders would prefer to come under Government and pay to it direct. Khas mahal tenants have got to pay rents punctually failing which recovery of rent by certificate procedure is taken recourse to; on the other hand defaulting tenants under landholders are generally allowed four years' respite before institution of rent suits for arrears. The rent decree also takes more than a year for execution. A khas mahal tenant has lesser rights than tenants under a private landlord. He cannot sublet his lands. He must cultivate the land to the satisfaction of the Government and so on.

Moreover, tenants under a private landlord are somewhat better off than a khas mahal tenant in another respect. They look up to and approach their immediate superior landlord in times of difficulties, specially when oppressed by a powerful neighbour. Family factions, party feuds, transactions with their moneylenders are very often settled or compromised in the parlour of their landlord, who still has some influence over his tenants by virtue of his position as a landholder and who is generally more intelligent and cultured than his tenants, and as such, is capable of settling such matters amicably. Khas mahal tenants are generally involved in costly litigations for want of a proper leader who can solve their difficulties.

Q. 20. We do not think that the Permanent Settlement Regulation was primarily responsible for encouraging subinfeudation. The imperfect revenue policy of the Government of the time as well as unsettled state of country made it incumbent on zamindars to lease out

portions of their vast zamindaris for the requirements of managing large and scattered estates and for the development and promotion of agriculture. "Pattas" were originally granted for a limited period but Government ultimately thought that it was essential that pattas of proprietors with the taluqdars and under-farmers should be given for terms sufficient to induce them for cultivation. In the absence of effective methods of speedy realisation of rents by landlords the great estates had to be split up, by a system of subinfeudation giving leases in perpetuity for some consideration. Thus the zamindar created a permanent tenure under him intervening between himself and his raiyat, parting with a portion of his zamindari income for valuable consideration. The Government demand was then too high; realisation of rent was uncertain and unsatisfactory. It was then very hard for the zamindars to discharge their obligations to the Government. Revenue sale law was too rigid. The Government by inauguration of the Permanent Settlement made their land revenue secure and certain. But the zamindars with whom the settlement was made, were put into disastrous plight for want of adequate and effective system for realising rents from their tenants. The economic necessities for the time led to subinfeudation. The Burdwan Raj was saved by the creation of Patni tenure system. "The Government by their hesitant and imperfect revenue policy allowed this permanent tenure to grow." If the Government thought that such subinfeudation was detrimental to the interest of the cultivating raiyats they ought to have helped the landlords in realisation of rents. We believe that the creation of such tenures has not adversely affected the interest of the raiyats. For, had that been the case, the raiyats under a zamindar would have been much better off than raiyats under a series of intermediate tenureholders. The raiyat under a zamindar does not necessarily pay less rent than the raiyat under a darpatnidar or any other similar subordinate tenureholder. The provisions of enhancing rents have been equally taken advantage of by a zamindar and a tenureholder of the lowest grade (se-patnidar). And all these landholders cannot increase and have not increased the rents arbitrarily but according to law.

Subinfeudation has "broadened the basis of capitalism" by diffusing the ownership of the property amongst Bengal's middle classes whose interests are directly bound up with the land. This "diffusion of ownership" to a large number of people is always wholesome and congenial to the growth of prosperity.

It is clear that subinfeudation has not actually caused any economic loss to the raiyats. On the other hand, it has brought them to a closer touch with their immediate superior landlords, which has been conducive to their benefit and welfare.

Q. 21. This question is divided into two parts. We shall first discuss the effect of abolition of landlordism on the social and economic position of the province, which according to our mind will be as follows :—

(1) Spread of communism with all the attendant evils.

(2) Ruin and extermination of aristocratic houses and poverty of middle class people.

(3) Increase of the problem of unemployment, the officers and servants of zamindars and tenureholders being thrown out of employment.

(4) Loss of touch of the agricultural population with the educated middle class people which means deterioration of education, agriculture and morality of the people living in villages.

(5) Increase of the amount of public debt without any corresponding financial and other benefit to the people—which means a very heavy burden on the people without any justification.

(6) Charges for collection of the revenue will increase inordinately.

(7) Revenue from sources other than land revenue will surely dwindle. And the loss of revenue on these heads will not be compensated by increase of income from land revenue.

(8) Many of the charitable institutions will have to be closed.

(9) Bengal will not be able to contribute to the Central Government so much as she does at present.

(10) The raiyats will be worse off than at present. As regards the economic and social position of the tenureholders, we dare to say that they will practically be the same as we have illustrated in our answer to question 16, when discussing the social position of zamindars in case of abolition of zamindaris.

Q. 22. If at the time of purchase by the State the zamindar or tenureholder consents to give up his claim to his homestead lands and khas lands for value there will be no difficulty. The Government will let out the same to others.

If on the other hand, the zamindar or any other landholder wishes to retain the said lands or homesteads he will be reduced to the position of a raiyat under the Government and will have to pay rent for the same at the customary rate of the locality.

After the final Settlement survey of the whole province no difficulty can arise as to the ascertainment of khas lands of a zamindar or a tenureholder.

Q. 23. The "occupancy-right" of a raiyat is the creation of the "British Legislation." The expression "Right of occupany" was unknown before 1859 the year of the passing of the Bengal Rent Act. The classification of the raiyats into "khudkasht" and the "paikasht" was done away with in that year and the "occupancy raiyat" was introduced with incidence more favourable to the cultivating classes. Section 6 of Act of 1859 lays down, "every raiyat who has cultivated and held land for a period of 12 years has a right of occupancy in the land so cultivated and held by him.....so long as he pays the rent payable on account of the same." By the Bengal Tenancy amending Act of 1929 the occupancy raiyats were given the *right of* transfer of their holdings subject to the payment of a transfer fee to the landholders as specified in the Act. The Act of 1938 gave them unrestricted right of transfer by abolishing landlord's transfer fee and the right of pre-emption.

At the time of the Permanent Settlement there were only two classes of tenants, (1) the Khudkasht (resident raiyat) and (2) the Paikasht. The former were raiyats cultivating the lands of their own village. They had a customary right of occupying their holdings so long as they cultivated and paid the customary rent. Their rights were originally not hereditary but became so later on by custom. They could not transfer their holdings without the consent of the community and their holdings were not practically transferable by sale., Their rent was liable to enhancement. The rights of paikasht raiyats, who were not residents of the village, were much lesser than those of the khudkasht. They were mere sojourners, and as such, tenants-at-will. Their rights were primarily governed by contracts, though one class of paikasht had hereditary rights over their land subject to custom.

Q. 25. We are against subinfeudation among raiyats, for we believe that system causes much hardship to actual cultivators of the soil. We agree with Mr. Field that "raiyats having a right of occupancy are also more and more getting into the habit of sub-letting; thus a fresh class of petty middlemen, ignorant and useless, if not absolutely pernicious is being created. It would not be unreasonable to enact that any raiyat regularly sub-letting his land should forfeit his right of occupancy."

We are not also in favour of extending "occupancy-right" to the tiller of the soil, if he is a bargadar or a sub-tenant on a "bhag" system. Please see our answer to question 32.

Q. 27. The Permanent Setlement Regulation while declaring that the State has the right to make enactments to protect *all classes of subjects* states clearly that "the Governor-General-in-Council will,

whenever he may deem it proper, enact such Regulations as he may thing necessary for the protection and welfare of the dependent taluqdars, raiyats and other *cultivators* of the soil." Here the words "cultivators of the soil" clearly point out to agriculturists (raiyats, under-raiyats, "bhag-tenants", etc.). We are sure that the framers of this Regulation had not "non-agriculturist" in their minds while drawing up the provisions of the same. We beg also to point out that the word "protection" does not necessarily mean conferring of a statutory status like that of the occupancy raiyat. And the framers of the Bengal Tenancy Act in their zeal for restraining the powers of the landholder, have overdone the thing. They have conferred a valuable right to the raiyat without saddling him with any corresponding obligation. And the result is deterioration of agriculture in the province.

This result does not encourage us to be enthusiastic about conferring "occupancy right" on non-agriculturists in non-agricultural holdings. Any one, whether an agriculturist or not, can now purchase the right of occupancy in agricultural lands, but not so in lands let out for non-agricultural purposes. If such occupancy rights are created in non-agricultural lands the effect will be deterioration of non-agricultural pursuits in many cases.

We are not in favour of granting occupancy rights in non-agricultural lands for another reason also. Leases for non-agricultural holdings are governed by the Transfer of Property Act. And most of the valuable non-agricultural holdings are situated within municipal areas and cities and large towns. To unsettle the contractual relation between landlord and his tenant in these parts, by legislation, would be tantamount to robbing landholders to enrich their tenants. It would be a communistic piece of legislation never dreamt of in this part of the continent.

Q. 28. There is no earthly reason to extend statutory right granted for one purpose to the use of an altogether different one. We do not think that the State is justified in levying from *tenants* any other tax except income-tax on the profits derived from the holdings thus converted.

All the proprietary rights in land having been vested in the landholder, subject to the payment of revenue, the State should not, in fairness, impose any additional tax on the landholder on his profits acquired by such conversion. The landholder on the other hand can eject his tenant or take any other legal steps, if the tenant has converted the land to a use different from the purpose of the lease granted to him.

Q. 29. We do believe that the number of bargadars, bhagchasis and others cultivating on a share of the produce is increasing. In these days of economic depression, share tenancy is getting popular because of its being more profitable for owners of lands and less risky for growers. It assures certainty of easy collection and is suitable for tillers having less or no capital. Both the owner and the cultivator remain satisfied with their respective shares of the produce obtained without any outlay of capital.. Further, want of capital and loss of efficiency for field works of our peasantry due to malaria are also the cause for increasing barga system.

Q. 31. About twenty-five years before, share-tenancy was almost unknown in this district. Lands of widow and minor owners were generally used to be let out in bhag system. Now the area under bhag-jote may be estimated to be nearly 50 per cent. of the raiyati lands.

Majority of bargadars do not hold raiyati and under-raiyati lands. There are, of course, smaller occupancy and under-raiyati tenants who owing to smallness of their holdings, cultivate bigger tenants' lands under bhag system.

Q. 32. We are against extending the right of occupancy and other rights to bargadars. We have had enough of experience of the tragedy of giving extensive rights to the occupancy holders. These rights do not obligate tenants for proper cultivation of their lands, rather have made them neglect cultivation. The tendency of wilful negligence on the part of the share-tenants is becoming strong to compel the owner of land, in the long run, to settle it on rental basis.

We do not see if there is any need of giving any right to bargadars for protection. The system itself is a form of partnership between the owner and the tiller of the land on some agreed terms. There has rarely been written agreement. "In a share-tenancy it is the mutual trust which is the core of the system and tenants know that a written agreement can be far more easily thrown up than a purely customary title." Further the system adjusts itself subsisting the relations between the partners.

But the wholesome system of share-tenancy is, nowadays, being so much abused by tenants, that if any protection is to be given, it is not to tenants but to landlords. For, trouble is coming from tenants where proja movement is growing strong. In this connection we should like to mention here the incident that happened last year in the district of Howrah at the time of harvesting. The tenants of a large area under share-tenancy belonging to Babu Monmotha Nath Mukherjee, a member of this association, looted away the paddy crop of the area in the presence of the landlord, refusing to give his

legitimate share of the crop and demanded settlement of the lands on rental basis at a nominal rent. The matter went so far, at the instigation of political agitators that more than one hundred and fifty people assembled before the gate of his house at Cossipore (Calcutta) and started *satyagraha* for several days to put forward their demand. The matter, however, was at last settled by the intervention of the Collector of Howrah at a great loss to the zamindar. In an event like this the zamindar is helpless and powerless. If he is to go to the Court for compensation, it is obvious that it is a very tremendous, rather impossible task for him to substantiate his claim in the suit. We have already stated that there has been rarely a written agreement in respect of share-tenancy. And there is no law to obligate a tenant, already in possession of some land, to execute a kabuliyat in respect of that land in favour of the landlord.

Under these circumstances it is to be considered who is to be protected—landlord or the tenant. The fact mentioned above was reported in the newspapers.

Q. 33. The barga system seems to have a very old origin. In olden days rent was paid in kind when the share of the produce was fixed from time to time according to the requirements of the State.

Even in modern days in South and West France, Italy, Spain, Portugal, Australia and in the United States share-tenancy is very popular and is in vogue varying in forms. The landlord or tenant-farmer of a farm gives his share-tenant the livestock, capital and farm requisites and shares with him the produce equally or in other proportions. The tiller gives his labour. The direction of field operation is left to the tiller who gives his labour, and the supervision of works to the landlord.

In Italy there is a system according to which the owner after reserving 25 per cent. of the produce as rent, halves the remaining portion with his partner and becomes responsible for providing machinery, drainage and of loan money without interest, required for working.

In America in the one-fourth system (landlord's share is one-fourth) tenant supplies all the equipment and seeds.

In one-third system the landlord controls in detail the kind of crops to be grown and beyond this all other things are left to the tenant's choice. In half-and-half system landlord supplies a part of livestock or owns a half interest in all or a part of the livestock. In two-thirds system "the landlord furnishes everything but the labour" (for informations re: share-tenancy in foreign countries stated above *vide* pp. 21-23, *The Tenure of Agricultural Land* by Mr. Sachin Sen).

In our country, in share-tenancy, forms of details vary in different districts with respect to the respective shares of the produce in different kinds of crops grown. In Hooghly half-and-half system is the prevailing system. Here the owner takes half of jute, straw and paddy and other grains without giving anything excepting farm-yard manure, if he has any stock of it and half the cost of oilcakes it applied. If tank-silt is applied, the cost of raising is borne by the owner and of the carriage by the tiller. Paddy for food and some cash if required are advanced to him as loan (without interest) and taken back from his share on the threshing ground after harvest. The tiller gives seed and labour with livestock. Potato is shared equally, the cost of oilcake and seed being borne equally by both the parties. In the case of sugarcane if the owner is to get half share of gur produced, he is liable to pay half the cost of manuring and cuttings and of gur-making including half of the hire of the crushing machine. If he does not give his share of these expenses, he is entitled to get only one-third of the produce.

In Howrah there are large areas in consolidated blocks under share-tenancy known as "khud-khamar". These lands are either directly under zamindar or middle tenureholders. The system, here prevailing, is similar to "kankoot" of the United Provinces. Paddy is grown and the yield is estimated before harvesting. Under this system share is half-and-half leaving the entire quantity of straw to the growers who supply livestock, labour and seed. Landlord does not take his share by actual division from his tenants but after some time collects the value in cash at the local market rate. We find that these share-tenants having acquired occupancy rights owing to long and continued possession are now neglecting cultivation. The result has been markedly visible in the fall of outturn.

In Birbhum there is a two-third system (owner's share two-thirds) in which owner supplies livestock, feed and implements, and the tiller gives labour and seeds. Dhan-thika, gula-thika and sanja—all are the same form of share-tenancy in which the tiller taking all risks and bearing expenses of cultivation gives the owner a fixed quantity of produce. In Bankura tillers for more than 12 years under the "sanja" system have acquired, during the recent Settlement Survey, the rights of occupancy raiyats in the lands they cultivate.

Thus we see that share-tenancy, though a very old system, still holds its grip upon the modern land system even in countries far advanced in agriculture. It may vary in forms according to local customs and conditions, but the principle remains the same. We are of opinion, that the system is economically sound and wholesome as it brings bigger economic gain to the owner of the land and assures certainty of collection. While on the other hand the tiller gains profit of his labour without investment of any capital and hence it is less

risky for him. He is relieved of his anxiety for payment of cash rent for which he always finds himself in a state of insecurity, being dependent on better marketing of his produce. The system adjusts itself to the parties without being least affected by the repercussions due to fluctuations of value of the produce. It is a form of partnership between the owner and the tiller on some agreed term. But it is regrettable that this sound and wholesome system, nowadays, is being abused by the owners of lands who are generally absentee statutory raiyats. They have little skill in agriculture nor do they understand it. They leave their lands at the hands of landless and unskilled labourers without sufficient financial help. They do not care to supervise the works but remain satisfied with their share of the meagre produce which they may get without spending a farthing. On the other hand, the bhag-jotedar goes to work at the fields of somebody else for cash neglecting his share-tenure as long as he possibly can. The result of working of the share-tenancy in this way is the inevitable decline of agriculture, which means loss of national wealth. In our opinion steps should be taken to obligate parties concerned for proper functioning of the system. The owner of the land should not be a sleeping partner.

The latter part of the question does not arise.

Q. 34. If rights of occupancy be given to bargadars, as soon as they will be conscious of their rights and privileges, they will become idle and neglectful of the trust and responsibilities hitherto reposed in them by the owners of lands. The effect will be further deterioration of agriculture and speedier accumulation of lands in one hand.

If it be now proposed to give some rights to bhag-jotedars, they will be thrown out of the lands given to them for bhag cultivation by owners of land in anticipation of such legislation. The zamindars and others will arrange for cultivation of their lands, thus brought under khas possession. The bhagchasis may, in many cases, agree to work in these lands as labourers but where there is scarcity of agricultural labourers and where owners of lands are not residents of the village or are absentees, lands may be re-settled, in bhag system.

Q. 35. We have already stated that the forms of share-tenancy vary in different districts but the principles remain the same. We know conditions vary greatly in different districts; fertility of soil greatly varies even in contiguous plots; and proportion of shares with respect of different kinds of crops also varies. Under the circumstances, it is not possible to ascertain what should be a maximum limit of share payable by a bargadar.

There is no need of fixing the limit by law. It should be left to local custom.

Q. 37. Before 1929, when occupancy holdings were not transferable, such holdings were used to be transferred with the consent of landlords on payment of "salami" by the purchaser. Landlords had the right to take khas possession of transferred holdings without paying any compensation to the purchaser. In those days when a tenant became heavily involved in debts he sought his landlord's protection, and on the other hand, the moneylender, knowing that he could not sell his debtor's land without landlord's permission, had to approach him for amicable settlement. In such cases the landlord intervened and considering his tenant's assets and liabilities settled debts with some remissions and arranging payment by easy instalments without interests or in some cases by making over some reasonable share of the debtor's holdings to the moneylender. Mutation was effected on receipt of "salami" which was settled at the spot and generally paid in instalments. Hence there was no estrangement of feelings between the parties. The landlords, the moneylenders and the tenants all worked in harmonious co-operation and at the same time there was some check to the passing of agricultural lands to non-agriculturists.

The tenancy legislation of 1929 gave occupancy holders, the right of transfer and the landlords, the right of pre-emption. But since then owing to economic depression it appears that there were a few purchasers in the field and voluntary transfer was not so much possible as was expected. Perhaps majority of transfers, during this period of economic depression, was due to sales under execution of money decrees. The percentage of landlords exercising this right of pre-emption was also very negligible and perhaps more than 50 per cent. of the cases were done in the interests of tenants. "The percentage of the area in respect of which pre-emption was exercised (B. 4·556) to the area to which the Bengal Tenancy Act applies (·65304 sq. miles) is ·003."—Sir P. C. Mitter.

Now in 1938, landlords have been brushed aside, stripped of their right of restricting or regulating the transfer and the door of passing of raiyati lands to the hands of non-agriculturists have been thrown wide open. The results will be that the encumbered cultivating raiyats, improvident and reckless as they are, will soon become landless labourers giving rise to another class of propertied people who are not generally agriculturists. Landlords are not in favour of accumulation of large areas in the hands of non-agriculturists as it surely deteriorates agriculture. We are not against the passing of lands to non-agriculturists provided they take active interest in agriculture and improve their lands. There are people who cannot maintain their family depending exclusively on their particular callings. They are already in possession of some lands as subsidiary means of living. There should be fair distribution of lands. It is not now practicable to restrict transfer under the present law. Landlords may be vested with some tangible power to regulate transfer.

Q. 38. An economic holding means such a holding as may produce sufficient for maintaining the cultivator himself and his family with some ease and comfort after paying his necessary expenses. The size of an economic holding will vary according to the following condition factors:—

(1) Financial position of the owner.

(2) Fertility of soil.

(3) Facility for irrigation.

(4) Methods of cultivation, i.e., whether intensive or extensive.

(5) The kinds of crop to be raised.

(6) The number of members of the family to be maintained.

(7) The situation in respect of markets.

According to the Banking Enquiry Committee a sum of Rs. 420 is annually required to maintain a family consisting of 5 members. We also find, according to the report of the same Committee, that income per acre is Rs. 60 and the subsidiary income of a family of 5 members is Rs. 44.

As an amount of Rs. 420 is required by a family of 5 members and as the income per acre of land amounts to Rs. 60, the land required for maintaining such a family (exclusive of the subsidiary income of Rs. 44) is, therefore, Rs. 420 divided by Rs. 60, i.e., 7 acres.

Now if we take the subsidiary income into account then the required land will be $= \frac{(420-44)}{60} = \frac{376}{60} = 6 \cdot 26$ acres.

Considering the above figures worked out on the basis of the figures obtained from the estimates of the Banking Enquiry Committee, we are inclined to think that the minimum size of an economic holding should be 5 to 7 acres according to the condition factors stated before. It is to be noted that this quantity of land can be cultivated by a yoke of oxen according to their efficiency and smartness for field work.

We think it will not be out of place, rather it will be interesting to give here an instance of a holding of 3·3 acres of agricultural land as being practically an economic holding owing to *proximity of marekts* and selection of crop grown. The holding is in the village Rajarbathan (tauzi No. 735, Hooghly Collectorate) in Serampore subdivision. The owner of the holding is one Krishna Chandra Denrhey, a Mandal (headman) of the village. He grows paddy in 2 acres—the only low land area of his holding. The remaining land (1·3 acres)—the high land portion is under banana plantation. The annual income from this

plantation comes to Rs. 400 or thereabout. This income comes from the sale of bananas, leaves and inflorescences in the markets of Chandernagar—which is within 5 miles from the place.

This statement was made by the tenant himself to his landlord (the Honorary Secretary of this Association). Thus we see here that owing to the *proximity of market* and *selection of crop* a holding of 3·3 acres has been an economic holding for *the raiyat.*

Q. 39. Yes, it is a fact that the size of many raiyati holdings is becoming uneconomic. It is a recognised fact that half of the agricultural population have got holdings below subsistence limit. There are various factors which have brought about excessive fragmentation of holdings. The main causes are pressure of population, break-up of joint families, law of inheritance and unrestricted right of transferability of holdings given by the Tenancy Act.

Q. 43. Undoubtedly coparcenary in tenancy is detrimental to good cultivation. The evil may be minimised by co-operative system of cultivation. The law of inheritance should operate so far as to define the shares of the respective coparcenars but actual partition of holdings below economic level must be prohibited. The suggestion though theoretically may be good and sound, may prove ineffective in the practical field owing to the growth of individualistic idea which destroys the spirit of co-operation.

Q. 46. We are of opinion that the framers of the Permanent Settlement Regulation did contemplate that one of the methods of increasing the income of landlords would be enhancement of rent.

The Government of the time did not contemplate either fixity of the rates of rent or permanency of tenures of *all* tenants of the zamindars.

"Proprietors of land" were expected to improve their estates and manage them well so that they might "enjoy exclusively the fruits of their own good management and industry". There is no sense in the words under quotation if in the lands improved through his exertion and good management the zamindar could not claim enhancement of rent from the tenants on account of such improvements.

Moreover these "proprietors of land" were enjoined "to conduct themselves with good faith and *moderation* towards their dependent taluqdars and raiyats". The word "moderation" would not have been used, if fixity of rent or permanence of tenure was contemplated.

Regulation 8 of 1793, passed on the same date as the Permanent Settlement Regulation, expressly laid down what particular tenants

would not be liable to enhancement of rent (sections 49, 50 of Regulation 8 of 1793). But even therein (section 49) the words "With regard to such istemrardars also as have *not held their lands at a fixed rent* for so long a period, etc." betray the existence of variations of rent of tenants. Again in section 50 of the same Regulation the zamindar is prohibited "to enhance the rent of any dependent taluqdar except upon proof that he is entitled to do so, either by the special *custom* of the district, or by the *conditions* under which the taluqdar holds his tenure; or that by receiving abatements from his jama, has *subjected himself to the payment of the increase* demanded and the lands are capable of affording it." If even the favoured class of tenants such as istemrardars and dependent taluqdars were subjected to an increase of rent under certain circumstances, we can safely presume that other classes of less favoured tenants were also liable to enhancement of rent.

Moreover, the zamindar, etc., was allowed "to let the remaining lands of his zamindari or estate, under prescribed restrictions, *in whatever manner he might think proper*" (section 52 of Regulation 8 of 1793). One of the prescribed restrictions was that the amount of rent and conditions of the lease would only be specific.

Another Regulation (Regulation 44 of 1793) laid down that the jama of the tenant should not be fixed for a period exceeding ten years; which provision again points against permanency of tenure.

The jama of the zamindar was fixed for ever. But the jama of the tenants was left to the full discretion of the zamindar, subject to some statutory restrictions. Hence we can safely conclude that one of the means of increasing the income of the zamindar was contemplated to be enhancement of rent of tenants with moderation.

Q. 47. The framers of the Permanent Settlement Regulation did not contemplate either fixity of the rates of rent or permanency of tenures of all tenants of zamindars.

"Proprietors of land were expected to improve their estates and enjoy exclusively the fruits of their own good management and industry." There is no sense in words under quotation if the lands were improved and the landholders could not claim enhancement of rent from the tenants on account of such improvements.

Moreover these "proprietors of the land" were enjoined "to conduct themselves with good faith and *moderation* towards their dependent taluqdars and raiyats". The word "moderation" would not perhaps have been used, if fixity of rent or permanence of tenure was contemplated.

Regulation VIII of 1793 (The Decennial Settlement Regulation) passed on the same date as that of the Permanent Settlement Regulation (Regulation I of 1793) by the same authority that passed the latter, expressly laid down what particular tenants would not be liable to enhancement of rent (sections 49, 50). The Regulation (Regulation 8 of 1793) further empowered the zamindar or other actual proprietor of land to let out lands of his estate to his tenants in "whatever manner" he liked, provided "every engagement contracted with underfarmers were specific as to the amount and condition" (section 52).

Simplification of rent was insisted upon, but not fixity of rent from all tenants in perpetuity.

Rather the Government of the day insisted that the jama of the tenant should not be fixed for a period exceeding ten years (*vide* section 2, Regulation 44 of 1793).

This restrictive provision of the law was never followed by the landholders, and was practically overridden by custom, and at last the Government had to recognize that the proprietors of land "were competent to grant leases for any period, which they may deem most convenient to themselves and their tenants and most conducive to the improvement of their estates" (Regulation V of 1812, Regulation VIII of 1819).

Q. 48. In our answer to question 46, we have tried to show that the Government of the day did not intend *all* tenants to be tenants at fixed rate.

There is no ground for believing that *all* tenancies, which existed at the time of the Permanent Settlement were meant to be held at rents fixed in perpetuity.

Q. 51. In view of our answer to questions 46, 47 and 48 this question does not arise.

Moreover the term "pargana rates" was always vague and uncertain. Sir John Shore wrote "At present no uniformity whatever is observed in the demands upon the raiyats. The rates not only vary in different collectorships but in the parganas composing them in the village and in the lands of the same village and the total exacted far exceeds the rates of Todar Mal."

In fact, "pargana rates" were statutorily declared so early as 1812 (section 5 of Regulation 5 of 1812). A new meaning of the term is given in the question, viz., rates prevailing in 1793. But it is impossible, perhaps, in most cases to discover what was the usual rate of a particular holding in 1793.

Q. 55. We do not recommend the readjustment of rents on a uniform basis throughout all parts of the province. We find rents vary in different districts and villages and even in one and the same village according to local conditions, situation and nature of the soil. In determining the basis, quality of land should be the prime factor. We do not see any other procedure of adjustment of rents in such cases except preparation of a new record-of-rights with the object of classifying lands more definitely (than the present Survey Settlement papers) according to the fertility of the soil and situation of the land, etc. We may suggest that the Government may take note of the system of old zamindari "jamabandi" papers in which such classifications were laid down. Frequent investigations for revision of such settlement papers will, however, have to be made in such cases.

Q. 60. If tenants can claim reduction of rents for deterioration of lands caused by fluvial action (such as sand deposit in spill area) or any other natural phenomena, the landlord and the State (in khas mahal) as well, in all fairness, should be entitled to have some portion of the benefit due to the improvement of land caused by fluvial action.

Q. 72. The average *yield* per acre of:—

(1) *Jute.*—In Bengal, according to Settlement Report (*vide* Statement VI, page 4, of the List of Statistical Abstract)—17 mds.

1925-26, 1926-27, 1927-28, 1928-29.—*Chinsurah Farm* (Government Farm, 4 years' average)—18·585 mds.

Makalpur Farm, Hooghly district (Private)—(11 years' average) —19·875 mds.

(2) *Paddy.*—In Bengal according to Settlement Report (*vide* Statement VI, page 4, of the List of Statistical Abstract)—18·5 mds.

Chinsurah Farm (Government Farm, 10 years' average)—21·82 mds.

Makalpur Farm, in Hooghly district (Private)—(11 years' average) —16 mds.

Union Board Farms (Hooghly) 12 farms, total acreage 60 acres, total outturn 1722·5 mds. for 1936-37,—28·7 mds.

(3) *Sugarcane.*—In Bengal, according to Settlement Report (*vide* Statement VI, page 4, of the List of Statistical Abstract)—57 mds.

1925-26, 1926-27, 1927-28. Chinsurah Farm. (Government Farm, 3 years' average)—59·77 mds.

Makalpur Farm in Hooghly district (Private)—(8 years' average)— 51·75 mds.

The average *cost per acre* of:—

(1) *Jute.*—Makalpur Farm in Hooghly district (Private)—(11 years' average)—Rs. 52·87 (excludes rent, but includes seed, manure, labour, hire of plough, all being paid in cash).

(2) *Paddy.*—Makalpur Farm in Hooghly (Private)—(9 years' average)—Rs. 15·68 (excluding rents, including seed, the cost of labour and hire of plough, all being paid in cash).

(3) *Sugarcane.*—Makalpur Farm in Hooghly (Private)—(8 years' average):—

	Rs.
(*a*) Cost of cultivating sugarcane ... (excludes rent, but includes seed-cuttings, manure, labour, cattle).	234
(*b*) Cost of gur-making ... (no depreciation on the value of crushing machine and boiling pan is taken into account).	66
The cost includes labour for harvesting, crushing and gur-making, cattle for driving the machine are available free excepting feed which is also excluded.	
Total ...	300

Q. 73. It is difficult to say definitely whether the productivity of the soil in Bengal is decreasing, until reliable data are available. From the decline of yields it cannot be said that the productivity of the soil is decreasing. For there are various other factors contributing to the causes of low outturn, viz., (1) quality of seed, (2) seasonal factors, (3) imperfect cultivation and other operations connected therewith, (4) defective crop planning, (5) pests and diseases.

Sir John Russell says,—"I was on several occasions informed, however, that the yields are declining. No good figures seem to be available but if further enquiry indicated any basis for the belief, it would be desirable for the Council (Imperial Council of Agricultural Research) to arrange for sample surveys to be taken in a region where the decline is said to be going on in order to obtain definite information on the matter." He has remarked that on an examination of 38 years' records in a Bengal rice-farm there is no evidence of deterioration of yield (his Report, page 24).

The second part of the question does not arise.

The Rajapur drainage system in Howrah has brought large areas under cultivation. The drain was cut by the Government making landlords liable for the cost both initial and recurring for maintenance. In fact the Government took the initiative and executed the work at the expense of the landlords, which they could not have done individually or collectively. We hear that the Dankuni khal was similarly excavated. The drain is now dying out. A few years ago we heard of some agitation by interested people who approached the Government requesting for its re-excavation. But we see nothing has yet been done.

For the purpose of improving decadent areas of Bengal the Rural Development Act of 1935 was passed. The Damodar Canal areas was selected for testing ground for its operation. The first trial was given there in 1936. But the people of the benefited area having started an agitation which ultimately developed into a no-tax campaign, Government have this year suspended the operation of the said Act. The Eden Canal with its inherent defects remains inadequate and irregular in supply of irrigation to its commanded area. We hear that a big scheme for irrigation for Hooghly and Howrah is under the consideration of the Government. So Government's work for improving the fertility of the soil by affording facility of irrigation in this district is, up to this time, not worth mentioning.

On the recommendation of the Royal Commission of Agriculture in India, 1926, since the Imperial Council of Agricultural Research has come into existence for giving lead and co-ordination to the provincial Agricultural Departments, we find their activities have been greatly intensified.

The Agricultural Department has been trying for expansion of improved varieties of crops for more than 15 years in the district of Hooghly. Chinsura Green Jute, Sugarcane Co. 213 and the Departmental Aus and Aman paddies have proved their superiority over local varieties in different centres. The Sugarcane Co. 213 and the C. G. Jute are now automatically expanding. They are now known to the cultivators.

Improved strains of paddies are being grown in different parts; but the expansion is not yet so satisfactory as in the case of sugarcane and jute. The District Agricultural Officer has been doing as much as he can for expansion of departmental varieties of crops in collaboration with the District Agricultural Association, with his limited allowance for tour and with one or two demonstrators. Now perhaps there are two additional temporary demonstrators.

Now 12 Union Board farms have been started in this district. These small farms are private properties but the works are managed under the supervision of the District Agricultural Officer at the

expense of the Department. These farms have been started for the purpose of giving facility for distribution of seeds of improved varieties of crops. Working of these farms will undoubtedly help speedy expansion in their respective local areas.

Distribution of manures and seeds is very limited owing to paucity of funds. The Divisional Commissioner used to get a grant of Rs. 1,000 which he distributed among the District Associations of his Division for free distribution of Departmental seeds. But that grant has been stopped for the last few years owing to financial stringency. The pressure of office work on the District Agricultural Officer is increasing. The number of demonstrators is urgently needed to be increased for active demonstration, for propaganda and for distribution of seeds.

Q. 74. Very little advantage of the provisions of the (1) Bengal Land Improvement Act, (2) Bengal Sanitary and Agricultural Improvement Act, and (3) Bengal Rural Development Act is taken for improvement of lands.

(1) *The Bengal Land Improvement Act.*—Generally we find loans under the Act are granted in times of acute distress or famine; perhaps to lessen the pressure on famine fund. During normal years we hear very little of its operations. In the year 1936 scarcity was declared by the Government in the entire rural area of the Hooghly district. It was reported that up to the 30th September of that year, the amount of loan money advanced under the Act was nearly Rs. 16,600. Schemes of land improvement which are forwarded to the local authorities are generally prepared by the applicant himself. He being a layman, his scheme fails to stand the scrutiny of the investigating officer. Besides, in many cases, applicants come for the loan money on some hidden motive under the garb of land improvement. In such cases it is very often found that the entire estimated amount is not spent over the scheme, a part being spent for some other ends. Then the scheme, being imperfectly worked, soon becomes unremunerative. Ultimately trouble arises at the time of realisation of the loan money. As it often happens, the investigating officer, conscious of his own responsibility, becomes apprehensive of recommending the loan under the Act; for in case of non-realisation he is held responsible (departmentally) for his action. Government money must have sufficient security, but in many cases it is also found that securities are unsound and insufficient. There are many old big silted-up tanks in villages which require re-excavation. Now they are in possession of tenants who are, in many cases, many in number, and as such, do not combine to take the advantage of the provision of the Act.

(2) *The Bengal Sanitary and Agricultural Improvement Act.*—This Act, though passed in 1920, has become antiquated and unknown

to the people. According to the Act an application for undertaking any work for improvement is to come "from a local authority or local authorities or any person or persons". Local authorities mean local bodies under the Bengal Local Self-Government Act of 1885. Now these local bodies generally have no sufficient funds to advance on a scheme under this Act after meeting the expenses of the responsibilities imposed on them under the Local Self-Government Act. So they do not take or like to take initiative in the matter of improvement that may be done under the Act of 1920. Financial responsibility appears to be very vague. If any person advances money for preliminary surveys, plans and estimates and if under section 4 (*1*) (*a*), the Collector rejects schemes there is none responsible for the money advanced for preliminary surveys, plans and estimates. For this reason nobody likes to hazard himself with a risky experiment.

(3) *The Bengal Rural Development Act.*—This is a new Act passed in 1935 and was first enforced in the Damodar Canal area in 1936. For reasons stated in paragraph 5 of the reply to question 73 the operation of the Act, at present, has been kept suspended.

Q. 78. (*a*) The average income of a raiyat from his holding may be worked out in the following manner:—

The agricultural population in Bengal is—34·2 millions (Census 1931).

The cropped area in Bengal is—24 million acres.

Taking each family of a cultivator consisting of 5 members and by dividing 34·2 millions by 5, i.e., $\frac{34·2}{5}$ we get 6·84 millions of families of cultivators. Now dividing 24 millions of acres by 6·84 millions of families we get 3·51 acres—which being average unit per family.

∴ the holding of a member $= \frac{3·51}{5} = ·702$ acres.

According to the Banking Enquiry Committee the income per acre in normal time is Rs. 60.

∴ the income per head from his holding (·702) = Rs. ·702 × 60 = Rs. 42·12.

(*b*) According to Banking Enquiry Committee the subsidiary income of a family consisting of 5 members is Rs. 44. This income comes from his vegetables, eggs, milk, and rearing of goats and sheep and poultry farming, etc.

∴ the income of each raiyat (member)

= Rs. $\frac{44}{5}$ = Rs. 8·8—which is his subsidiary income.

Now to determine what percentage of cultivating raiyats can maintain themselves and their families from the income (which perhaps implies the income both from his holding and from other sources) we may calculate in the following way:—

As from above—

		Rs.
Income of each member of a family from land ...	=	42·12
Subsidiary income of each member ...	=	8·8
Total income ...		50·92

∴ the total income of a raiyat's family

= Rs. 50·92 × 5 = Rs. 254·60.

But according to the Banking Enquiry Committee a sum of Rs. 420 is required for the maintenance of such a family.

Thus we see that—

Sum of Rs. 420 is required for the maintenance of one raiyat with family.

∴ Sum of Re. 1 is required for maintaining $\frac{1}{420}$ raiyat with family.

Sum of Rs. 254·6 is required for maintaining = $\frac{254·6}{420}$ raiyat with family.

Out of 1 raiyat with family only $\frac{254·6}{420}$ raiyat with family is maintained.

Out of 100 raiyats with family only $\frac{254·6}{42}$ raiyats with family are maintained.

= 60·61.

i.e., 60·61 per cent. of cultivating raiyats can maintain themselves and their families from the income of agricultural holdings and subsidiary occupation.

Q. 80. We agree to the suggestions made for increasing the income of cultivating raiyats.

(*i*)-According to Sir John Russell the following factors are capable of improving the yield of crops—

(1) Better varieties of crop.

(2) Better control of pests and diseases.

(3) Better control of water supply for crops.

(4) Prevention of soil erosion.

(5) Better use of manures and fertilisers.

(6) Better implements and cultivation.

(7) Better system of cropping, in particular better rotation and the use of fodder crop with the view of obtaining more farm-yard manure.

Improvement cannot be had by asking cultivators to do the things suggested by Sir John Russell. It must be planned and executed by Government or other statutory organisation.

The suggestions made in items Nos. (*ii*), (*iii*), (*iv*) and (*v*) are all right.

Q. 81. Yes, we think that pressure of population on Bengal soil is one of the main causes of the poverty of the agriculturists.

In reply to the previous question (No. 78) it has been shown that the cropped area in Bengal can maintain 60·61 per cent. of 6·84 millions of families, each consisting of 5 members. Therefore the remaining 39·39 per cent. of families will have to be diverted from land. This means 39·39 per cent. of 34·2 millions of agricultural population is surplus in respect of the agricultural needs of the province.

Q. 82. The situation arising out of pressure of population on the Bengal soil is not within the control of the land system. A land system however perfect it may be, cannot reduce the pressure. We find that it would remain insistent and go on increasing with the increase in population. The pressure may be lessened (1) by extensive and intensive method of cultivation, (2) by emigration, (3) by diversion of population to industries from agriculture and lastly by social reform movement. Large Government aided factories should be started for absorbing as much of the population as possible.

Q. 86. We are of opinion that the Debt Settlement Boards have not been able to deal satisfactorily with the problem of agricultural debt of this province. The causes of their failure are enumerated below :—

(1) Any scheme of debt conciliation cannot succeed until adequate organisation for carrying out debt clearance has been built up. To

provide for compulsion and not to provide any funds has been at the root of the wrecking of the whole system of agrarian and rural credit.

(2) The Act, which was primarily and perhaps, exclusively meant to relieve poor agriculturists, is being taken advantage of by many unscrupulous people, who are not agriculturists by profession and not poor in the true sense of the term.

(3) The Debt Settlement Boards, composed of rural people, devoid of legal training and sometimes without moral scruples, have been asked to decide most difficult questions of law of mortgage, etc. (which are beyond their intellectual powers to decide), and have been vested with great arbitrary powers, which are often abused.

(4) The unwarranted taking away of the jurisdiction of Civil Courts and especially the High Court over these Boards, has created a situation unheard of in the legal history of this country.

(5) Dilatoriness of the Debt Settlement Boards has become almost proverbial.

(6) Arrears of rent and debts in kind (especially seed crops and food crops) having been allowed to be dealt with by the Boards, the feeling between tenants and landholders and agriculturist debtors and their creditors (who supply food crops and seeds in times of greatest need) has been estranged. And consequently poor agriculturists will not perhaps be given the relief that was granted them before. Landholders cannot afford to be generous, when payments of arrears of rent due to them are postponed indefinitely. And the capital of creditors has ceased to flow to the agriculturists for fear of a bad return. And the credit of the agriculturists is gone for ever.

The provisions of the Bengal Agricultural Debtors Act have sometimes been criticised severely by the High Court. Strong criticisms of the bad effects of the Act have often been made by the Press. We have discussed here, in short, why the Debt Settlement Boards have failed to relieve rural agriculturists. To criticise the *Act and rules*, section by section thereunder, would require much greater space. We, however, undertake to submit a supplementary note criticising the Act, at the time of giving evidence.

Our suggestions for improvement of the situation are as follows:—

(1 Rent, which has always been the first charge on land of agriculturists, must be given first preference before all other debts.

(2) Creditors, supplying seeds and food crops should be given special facilities for realising their dues speedily.

(3) The jurisdiction of Civil Courts and especially the High Court must be extended over the Boards.

(4) Speedy disposal of cases before the Debt Settlement Boards should be insisted upon.

(5) The policy of robbing creditors to pay agriculturist debtors must give place to a well defined policy of supplying cheap credit money in rural area. Big Government loans may be raised for the purpose, or reliable Banks, Corporations, Limited Companies, etc., with a well-recognized policy may be encouraged to advance agricultural loans at cheap rates of interest.

Q. 89. The certificate power of landlords in the matter of realisation of arrear rents having been withdrawn, there is in fact no machinery available to them for prompt recovery of their dues. The Tenancy Act is the only means which landlords must have recourse to in the event of non-payment of rents by their tenants. Originally landlords wanted to have tenancy legislation for being vested with effective powers of speedy realisation of rents. But it is regrettable that the Act is very negligent in giving them their fair and legitimate claims. The Act prescribes that every matter between landlord and tenant will be decided in the Court; thus it is an indirect gain to the Government and loss both to tenants and landlords. The procedure is too costly and dilatory. Arrears cannot be realised quickly by rent suits. There is no rule for speedy disposal of rent suits within a specified time. The procedure is so lengthy that a suit can be dragged for a year. Application for obtaining sale certificates may be and generally are put off on flimsy grounds. Rent suits are too costly and harassing to both parties. Ultimately the major portion of the cost falls on the defaulting tenants. The Tenancy Act is also very defective in so far as it does not ensure quick and effective possession of lands purchased in a sale under execution of rent decrees.

We may make the following suggestions for improvement in the procedure for a speedy disposal of rent suits.

The two things that are responsible for the delay in the disposal of rent suits are these:—

(*i*) The great delay in service of summons, and

(*ii*) Want of time of the trying Judge.

Since the Amendment of 1928, identifier has become unnecessary and the peon is directed to go straight to the defendant for service of summons. What the peon nowadays does, is this,—as there is some vigilance over these peons by the Nazir and as no plaintiff's man is

required to accompany the peon as identifier the peon extorts money by harassing the plaintiff landlord in the following way:—

> He goes straight to the tenant's house, does not find him there and without waiting or caring to know when he will come back to his house, the peon takes the signatures of two persons of the locality and gives a return that the defendant tenant is not at home or cannot be found. This performance is generally repeated twice and sometimes thrice or more with the result that the suits take a long time before they can be heard.

Another reason for the delay is the numerous co-sharer tenants of a holding and in many cases some co-sharers live away from their home and the result is that summons goes back unserved many times in all such cases. This delay in the service of summons is mainly and essentially responsible for the disposal of rent suits. To remedy this we suggest a double service—

(1) Service through court peon on the tenant where feasible and if the tenant is not found (in cases where the tenant has left the village and is living abroad) service in the absence of personal service by sticking the summons on the outer door of the tenant's house, and

(2) Simultaneously sending a registered postcard with acknowledgment due to the tenant and in case of tenants living abroad—postal service.

This should be done only once, as there are some Judicial Officers who order repetition of such service of summons many times over.

We make another suggestion as regards trial of rent suits. Ordinarily, munsiff tries regular suits and takes up the rent suits after midday recess. The disposal of rent suits is very distasteful to the munsiffs. We have seen munsiffs keeping gomastas hanging after 5 p.m. for the disposal of *ex parte* rent suits and even adjourning such cases for want of time. Normally there are two munsiffs in each station and we suggest that one munsiff shall be a rent suit munsiff. He shall decide only contested and *ex parte* rent suit cases and if any time is left after the disposal of rent suit cases, he shall take up other kinds of suits.

It is submitted that this practice, if given effect to, will save time and a lot of saving both to the estate and to the tenant and speed up the disposal of cases.

Another suggestion that we make for the speedy disposal of rent suits, is to simplify the procedure of trial in rent suits. A mass of case law has decided that in a rent suit really everything could be decided. The question of abatement of rent whether on the ground of diluvion or on the question that the land has become unfit for cultivation, for any reason whatsoever, may be raised in the rent suit. This

involves an inordinate delay in the disposal of such cases as it involves commission, surveys and measurements, etc. Similarly the question of suspension of rent on the ground of substantial or technical dispossession are raised by the tenants on the flimsiest grounds and take a long time for the disposal of these cases.

We simply give two instances, there are good many other ways for spinning out a case, as it is always in the interest of a tenant to delay the disposal of the cases and consequent payment.

Now that record-of-rights has been prepared practically all over Bengal, there must be a statutory provision for summary procedure in suit on Negotiable Instruments Act as provided in the Civil Procedure Code and the defendant shall not be allowed to defend the suit unless he obtains the leave of the Court to appear and defend the suit.

The provision of section 150 of the Bengal Tenancy Act is a dead letter and more honoured in its breach than in its sanction.

There should be three simple matters in a rent suit—

(1) whether relationship of landlord and tenant exists,

(2) the amount of rent payable for the jama, and

(3) payment, if any.

If the tenant wants to raise any other point in a rent suit, he must be ordered to bring a regular suit.

If suggestions on the above lines are given effect to, it is submitted that the agitation against delay in the trial and disposal of rent suits will be a thing of the past.

In execution cases of rent suits, we suggest the abolition of the attachment process. Rent is a first charge under section 65 of the Bengal Tenancy Act and if attachment is not necessary in a mortgage suit, no attachment can be necessary in rent execution cases and this will reduce the cost of the execution case in the interest of both the landlord and the tenant.

Further simplification in the execution case is necessary for speedy disposal of the rent suit.

Our suggestions are on the procedural methods only. We do not venture to suggest any amendment of any particular section of the Bengal Tenancy Act, as we know that the voice of our five representatives in the Legislature is inaudible in a House of 250 members.

Q. 92. We beg to enumerate here some of the laws, which operate harshly on landlords and which should, in our opinion, be amended or repealed. The list, however, is not exhaustive—

(1) Patni Regulation (Regulation 8 of 1819).

(2) Bengal Tenancy Act (as amended up to date).

(3) Bengal (Rural) Primary Education Act (1930).

(4) Bengal Agricultural Debtors Act.

(5) Income-tax Act.

We shall submit supplementary note discussing sections of these and other Acts and rulings on the same, which operate harshly on landholders.

Q. 93. The Tenancy Amendment Act of 1938 has taken away landlord's transfer fee and his right of pre-emption. So landlords have now lost their income they had been receiving as landlord fee. The Act has affected the ultimate value of zamindaris. Attractions for the landed estates in Bengal have gone for ever. There is no reason to think that by abolition of landlord fee the tenants will get better price for their lands from purchasers. For tenants, naturally, do not like to part with their holdings, unless under compulsion due to pressure of heavy debts or sale under execution of money decrees of their moneylenders. Speculative moneylenders generally come upon their debtors when they see that their demand has swelled up so much interest that competitive value will be of no avail. So there is no chance of raiyats getting better price of their lands for the abolition of landlord's transfer fee. Right of pre-emption kept land value at a proper level which is indispensible in the economic interest of the country. Now owing to its abolition deeds of conveyance will be made at under-value to lessen stamp duty. Thus Government will lose their income from stamps. As in trade, publicity of market prices is indispensible in the economic interest of the traders, so in land business publicity of the value of land is essential in the interest of landlords, tenants and the general public. The stipulated value in deeds of conveyance will be misleading and lands will pass to non-agriculturists more freely than ever, at a low rate of price reducing cultivating raiyats to landless labourers. Now the right of pre-emption has been given to co-sharer tenants. The provision will be a dead letter; for tenants have hardly money enough for exercising this right to avoid undesirable intruders. Thus failing to oust the intruders, raiyats will be subjected to harassment which may even lead to serious communal troubles. The Tenancy Act alienating the peasantry from their own zamindars has thrown them at the mercy of the strangers who are comparatively unimaginative and unsympathetic. Formerly when the right of pre-emption was with landlord and if he had to exercise it in the interest

of tenant, the money required was paid by landlord and was realised later on by instalments either with or without interest from the tenant in whose interest the right was exercised.

We learn from late Sir P. C. Mitter's Council speech (February Session, 1933) on the resolution demanding the repeal of the provision of the landlord's transfer fee and the right of pre-emption in the Bengal Tenancy Act, that before 1928 landlords used to get between 80 lakhs and a crore of rupees from transfer fee and after 1929 when landlord-fee was fixed at 20 per cent. of the consideration money or 5 times the rent whichever was the greater, the landlords were getting 32 lakhs of rupees even in years of great economic depression. Recently the present Hon'ble Revenue Minister stated before the House in course of his debate on abolition of landlord's transfer fee that landlords had been getting 35 lakhs of rupees annually as landlord fee. Thus they have suffered a heavy loss for taking away this customary and statutory right.

Reply by the Howrah Landholders' Association.

Q. 1. *Duties and obligations of zamindars.*—The description of the duties and obligations of the zamindars are not exhaustive. They had the duty of maintaining peace (police duties, since relieved by Regulation XII of 1793). They had obligations to inform authorities of bad characters within their boundaries and to supply rations to the Government officers and the Army. They had jurisdiction over petty civil suits. These are some of the additional and traditional duties and obligations.

Rights of tenants.—The Permanent Settlement did not take away any existing right from the tenant. On the other hand it protected and strengthened those rights. Before the Permanent Settlement the occupation of land was on payment of rent, which was liable to be increased by imposition. The fixity of rent was the creation of British Statute. The avowed object of Lord Cornwallis was to protect the tenants and this was emphasised in Regulation I of 1793. (*See* Minute of Lord Cornwallis, dated February 1790.) It will be worth noting the Great Rent Case of 1865 in which the classes of raiyats and their rights, and the measures adopted in the period of Dewani for their protection are lucidly analysed in the judgment.

Q. 2. *Choice of tenants.*—The zamindar had power to choose their tenants from before the Permanent Settlement. The Permanent Settlement did not convey any new power to them. In case of transfer of tenancies his express permission had to be taken. Only he could not prevent tenancies descending to heirs of khudkusht raiyats.

User of Land.—The zamindars had the power to prevent conversion of land from one class to another before the Permanent Settlement. The Permanent Settlement did not convey any such right to them.

Q. 3. The landlords made new roads, excavated dighis and tanks, dug wells, established schools, charitable dispensaries, hospitals, and many other institutions of public utility. They established huge religious endowments for the public good and were patrons of many local industries and handicrafts. They have brought vast tracts of waste lands under cultivation by clearing jungles, by draining marshes and by protecting low lands with embankments. They brought cultivators from elsewhere and settled them on their lands at their expenses. Under the security of the Permanent Settlement they let loose their capital for investment in lands and tried hard to increase the economic productivity of the soil. That they were the most powerful factors in developing the prosperity of the country is proved by the famine condition of the tenantry in 1770 and by the vast tract of country that came under cultivation since the Permanent Settlement. It is difficult at this date to give positive proof of the part played by landlords. That

increased activity and industry followed the Permanent Settlement is judicially noted in the Great Rent Case of 1865. The report of the Commissioner, Burdwan Division, dated the 20th October 1883, is worth quoting in this connection. It runs—"The Bengal of to-day offers a startling contrast to the Bengal of 1793. The wealth and prosperity of the country have marvellously increased beyond all precedents under the Permanent Settlement.....a great portion of this increase is due to the zamindari body as a whole, and they have been very active and powerful factors in the development of this prosperity."

The Association thinks that the landlords performed the functions expected of them under the Permanent Settlement. They met the revenue demand punctually which helped to stabilise the finances of the Government. They co-operated with the tenants and evolved a settled condition out of the unsettled state of things prevailing before the Permanent Settlement. It is the subsequent tenancy legislations that crippled the hands of landlords by making them mere rent-receivers and snapped the ties between landlord and tenants. Since the passing of the Bengal Tenancy Act legislation after legislation has been introduced to grant greater privileges to tenants at the expense of the landlords without any corresponding obligation on the tenants, even of improving their lands or cultivation. The landlords as proprietors of land have no choice even if the lands are neglected and are left fallow. It is well known that even the demand for effective powers of speedy realization of rent is deliberately ignored and the tenants are encouraged by legislature not to pay regular rent. The result is that there is none to perform the function of landlordism.

Q. 4. It is not correct to say that zamindars were not proprietors of the soil before the Permanent Settlement. From the early Hindu times the village zamindars were found to exist side by side with the khudkusht and paikusht raiyats in the village community. They along with the King and the raiyats were the proprietors of the soil as each of them was entitled to a share of the produce. As the Hindu system of jurisprudence tended towards hereditary rights it was conducive to the growth of zamindars as well.

In the Muhammadan period the Hindu system was left undisturbed and mention is made in the "Ain-i-Akbari" of numerous rich and powerful zamindars in Bengal. The zamindars had heritable and transferable rights. If a zamindar was deposed and settlement was made with a stranger he was given portions of land or malikana in money. From these facts the conclusions can be drawn that the zamindars were not mere office holders or collectors of revenue but had interest in the land.

Moreover, if we go back to trace the origin of zamindars we find that there were old tributary Rajas, numerous petty chiefs like the

Bara bhuiyas of Bengal, adventurers who rose to power and acquired a tract of the country, revenue collectors who during the decadence of the provincial government gained their footing as hereditary proprietors. Revenue settlement of the Moghuls recognised these petty chiefs, rajas and adventurers as zamindars and their descendants are amongst the present day zamindars.

Sir John Shore in his Minute of the 2nd April 1788 says: "the origin of the proprietary and hereditary right of the zamindars is uncertain, that in Akbar's time the zamindars of Bengal were numerous, rich and powerful, that they were not of his creation and probably existed with some possible variation in their rights and privileges before the Muhammadan conquests in Hindusthan" (Field, p. 40).

The Permanent Settlement of Bengal was made with the "composite body of zamindars" who have been proprietors of the soil before the Permanent Settlement. The Regulation merely recognised their rights in the soil which existed before. The policy of the Government has always been against radical change. If the zamindars were not actual proprietors of the soil from before it is unlikely that the British Government in those unsettled times would have acknowledged them as such and the country would have accepted them as proprietors without any objection.

This Association thinks that the discussion of actual ownership of land at this remote date is a mere academic one. The idea of property in land as is understood in English law was not so well defined in the ancient period. There is always the distinction between the right to possess which is a consequence of ownership and the right of possession which is independent of ownership. Elphinstone says: "Many of the disputes about the property in the soil have been occasioned by applying to all parts of the country facts which are true of particular tracts; and by including in conclusions drawn from one sort of tenure other tenures dissimilar in their nature."

Q. 5. This Association thinks that the annulment of the Permanent Settlement would be a breach of the solemn pledge given by the East India Company. By making the Decennial Settlement permanent Lord Cornwallis was not acting with ill motives. His object was (*i*) to stabilise the income from the revenue without a reduction of the revenue demand of the time, (*ii*) to end the unsettled condition of the country of the time and to place it on the road to progress by inducing in the inhabitants a sense of security and by protecting them from the exactions of the Government officials. His object was achieved and zamindars agreed to pay 9/10ths of the gross collection. In the hope that future will be for their benefit and will yield them sufficient return for their labour and capital they have sunk large sums in the land in

their effort to drain them or to improve waste lands and jungles. Many zamindaris were sold for default of revenue immediately after the Permanent Settlement and thereafter were purchased by capitalists on the faith of the pledge of the Government that the revenue demand will not be increased. It will be hardly fair and equitable to tell them that the given pledges will not be honoured. It will make the investment of their choice, i.e., the zamindaris, worthless and destroy their capital.

As regards the tenants not being made parties to the pledge, the Association submits that the tenants need not be a party to it, which was an agreement between the proprietors of the soil and the Government for settlement of land revenue. All that was done was that the rents payable by the raiyats were ascertained and the revenue was fixed based on such assets of the estate. This was done before the Permanent Settlement and to this day the tenants are not parties to any revenue settlement in temporarily settled estates. The tenants were not affected by the Permanent Settlement; rather it benefited the tenants by putting a stop to the previous practice of enhancing the raiyati rents and then fixing the revenue.

As regards the Permanent Settlement permanently crippling the financial resources of the country the Association answers definitely in the negative. The agricultural assets of the country are mainly due to the Permanent Settlement. These assets are indirectly responsible for increase in revenue in other directions, e.g., stamps, court-fee, customs, etc. A comparison of the finances of Bengal with that of the other provinces will prove the truth of this contention. The Association thinks that the comparative affluence of the people of Bengal and her taxable capacity is due more to the Permanent Settlement than to anything else. It is significant to note in this connection that Bengal's contribution to the Central Government is the highest of all the provinces in India. (*Vide* answer to question 13.)

Q. 6. The first part of this question has been answered in answer to question 3. As regards the extension of cultivation the Association thinks that all the three factors have combined to produce the result. But it is difficult to assess the contributions of each factor separately. There is no doubt that the initiative and pecuniary and other assistance of the zamindars played the greatest part in the extension of cultivation in Bengal. Increase of population may foster the demand for land but the condition of tenantry was not such that they can afford to spend money in major improvements. After the Permanent Settlement many zamindaris were sold as the margin of profit was small and we find zamindaris let out in patni to capitalists at the gross rental of the mauza. It was therefore to the interest of the landlord and patnidars alike to

bring more land under cultivation and so far as marshes, wastes and jungles are concerned it can be concluded that they are mostly done by the zamindars and patnidars. As there was no combination of tenants acting as a compact body, the scope of individual efforts of tenants for improvement of lands or to make it fit for cultivation was very limited and all their efforts were at best confined to small areas.

Q. 7. The increase is no doubt due to (*i*) the industry and good management of the zamindars, (*ii*) increase in cultivation and reclamation of waste lands, and (*iii*) enhancement of rents. But it is not possible to estimate the proportion of contribution of each of the three factors in the absence of statistics which this Association does not possess.

Q. 8. After the removal of the zamindar's right of distraint by Act X of 1859, oppression by landlords are things of the past. In the matter of realization of rents the Association submits that the zamindars are more generous to the tenants than the Government is to them. In times of calamities they have remitted their tenants' accumulated arrears of rent. They always made remission of interest and granted easy instalments for payment of arrears of rent.

In the matter of increase of rent after Permanent Settlement, there were sufficient safeguards against arbitrary increase of rent in the shape of periodical returns required by the Regulations. Khudkasht raiyats, who held from before the Permanent Settlement, were entitled to retain possession so long as they paid rent at the pargana rate; those who came after Permanent Settlement were entitled to get pattas at the pargana rates. So that there was no scope for arbitrary enhancement. All these were provided in the Regulations of 1793 and subsequent Regulations. (*Vide* Regulation 44 of 1793, and Regulation VII of 1799.) The cases of increase of other tenants are guided by subsequent legislations and are neither arbitrary nor illegal. The cases of such increase are small in this district and in the last settlement operation more than 60 per cent. of the raiyats were recorded as "raiyat sthitiban mokrari."

In the matter of realisation of abwabs, nazar, hisabana for issuing dakhilas, etc., such realisations were customary and existed from before the Permanent Settlement. As most of the abwabs sanctioned by custom are now gradually stopped by legislature, certainly the condition of the tenants did not become worse than it was before Permanent Settlement.

As regards the general treatment of the tenants the zamindars, so long as they were secure in their influence and power, did many works of public utility; but gradually with the curtailment of their privileges and powers, they do not feel that they need do anything more

than they are legally required to do. Subsequent legislations brought about a gradual estrangement between landlord and tenant by teaching tenants that their only relationship with the landlord is the payment of rent. The personal touch was thus snapped and the zamindars were forced to leave their ancestral villages where their ancestors ruled.

Q. 9. The first part of the question has been dealt with under questions 3 and 6.

Beyond extension of cultivation, good management and fair treatment of the tenantry the Permanent Settlement did not impose any other obligation. The Association is of opinion that this expectation has amply been fulfilled.

Absenteeism is not a curse, as it is made to be. It is not possible for a zamindar to be resident in all the mauzas. All big zamindaris are managed by officers appointed by them. It is only the petty landlords who manage their estates. Still they maintain the institutions established by their forefathers. The Assocation thinks that much depends on the temperament of the zamindar and very little on his place of residence.

By the end of the last century the pecuniary condition of the zamindars had grown worse and many of them found it difficult to maintain themselves. They have therefore to come to town for education of their children and to explore new avenues of trade or profession. The failure, if any, to carry out the obligations in villages is not so much due to the zamindars themselves as to the changed conditions.

Q. 10. The Permanent Settlement was in the interest of the Government, which found it difficult to realise the revenue under the conditions prevailing at that time. It was to the interest of the landlords since it guaranteed fixity of rent of their tenure and put a stop to fresh imposts by the Government. It was to the interest of the tenants and the general public since it led to increased activity and industry as held in the Great Rent Case.

It has stabilised the revenue system of the country by making the Government revenue safe in times of drought and economic depression.

It is undoubtedly true that the Permanent Settlement has created a middle class of bhadraloks, who are the intelligentsia of the country. The zamindars have been the leaders of their people and all beneficial public movements have been due to their initiative. The zamindars contributed not a little to the present progress and prosperity of the country.

Q. 11. *1st criticism.*—The Association thinks that this criticism is not justifiable. Certainly 80 per cent. of the total produce of land does not go to the zamindar. The Association has no knowledge of any statistics showing the profits of land enjoyed by actual cultivators and that enjoyed by the zamindars. It is clear that between the zamindar and the middlemen a high percentage of rents paid by the raiyats is absorbed. It is also clear that the figure does not take into account a large body of raiyats who are also rent receivers; or the capital outlay of the zamindars and their arrears of rents for which lands were made khas and subsequently let out.

2nd criticism.—It has encouraged subinfeudation of tenancies no doubt; but the Association thinks that this is not the only cause. There was subinfeudation even before Permanent Settlement as the Permanent Settlement Regulation speaks of dependant talukdars. Supposing that subinfeudation is due to Permanent Settlement, it has not affected the tenants who were on land before and the incidents of such tenancies remained intact.

3rd criticism.—The Association does not think that Permanent Settlement has led to enhancement of raiyati rents. Rather the permanency of the revenue demand by Government protected the tenants from enhancement. The Association thinks that the pressure on raiyats would have been far greater had the land revenue demands been not fixed as made by the Permanent Settlement.

4th criticism.—It has not created any overlordship over actual cultivators which was not there before Permanent Settlement. Mention is made in Manu of Lords of villages in Hindu times. (*Vide* Manu, Ch. VII, Verses 116, 117.) In ancient Hindu village community zamindars existed side by side with the khudkasht and paikasht raiyats. In Moghul times too the zamindars were there.

The Association does not think that there is any justification for the criticism that overlordship is harassing unless the demands of rents and taxes are always deemed to be harassing by those who have to pay. Individual cases of harassment and oppression has nothing to do with the Permanent Settlement. It is certain that had the Settlement been temporary, the harassment and oppression would have been far greater.

Q. 12. The grounds stated in question 11 are not sound and permanent Settlement cannot be abolished on those grounds.

Q. 13. The Association thinks that though a certain percentage of rents paid by the raiyats goes to the zamindars, yet there are the middlemen and the raiyats and the lakhrajdars who also divide the profits from land among themselves. Besides, there is not a loss to the State of

12 crores, unless the State is to appropriate every pie of the rent paid by actual cultivators.

The theory of loss to the State by Permanent Settlement is hardly tenable as the collection of the Permanent Settlement estates compare most favourably with the collection of the Government estates during these days of economic depression. It does not take into account the heavy cost of collection charges which the management by Government would necessarily entail. It does not take into account the other sources of revenue to Government due to the effect of the Permanent Settlement, viz., stamp duty in suits, income-tax on middle class people and customs duty (export duty on jute). The Association thinks that the supposed loss is based only on a mathematical calculation and not on actual facts. On the whole the Permanent Settlement is a gain to the people. For anything that contributes to the welfare and prosperity of the largest number of people cannot be described as a loss and the money in the hand of intermediaries can never be deemed to be a loss to the State, for it forms the national assets of the State.

The Association does not support the three methods suggested to augment the revenue. As regards suggestion (1), viz., the total abolition of the zamindari settlement, the Association is opposed to such a course. The total abolition of the zamindari system is not a pure financial question of gain or loss of revenue to the State. It involves the whole social question of Bengal. The joint family system, the concept of social life, and the inter-dependence among all classes in religious festivities and social order as a counter-balance of the disintegration of society through class warfare—all derive their vigour from the existing land system. Its abolition means the destruction of the whole social structure in the country-side of Bengal of which the landlord is the natural focus and will be revolutionary in character. It would mean the ruination of the middle class, as the profits of land are divided between zamindar at the top and the tenureholder at the bottom. It will involve the ruin of middle class people, doctors and lawyers, who are products and proteges of the zamindari system. With the withdrawal of the upper middle class from the land the law of social life will be cruel competition and the traditional faith in social environment with the basic principle of mutuality and co-operation will vanish for ever. It will choke the indigenous source of public utility, works like hospitals, charitable dispensaries, schools, etc., which are mostly supported by the zamindars and these intermediaries. It will greatly reduce the prosperity of the country by ruining the taxable capacity of these intermediaries, who contribute a very big sum to local rates, income-tax, customs duty, etc.

While on the other hand the financial aspects of the abolition need to be considered. Direct management will involve heavy loss in revisional settlements, costs of collection, maintenance of protective works, undertaking of irrigation works and works of improvement and also lossess in the shape of remissions and abatements for failure of crops, diluvion, etc. It will be necessary to have the data of the net increase first after making allowance for all these and compare the same with the supposed loss noted in the question. The percentage of collection will also fall heavily as is clearly demonstrated by Land Revenue Administration Reports for khas mahal which is much lower than the permanently settled estates.

The Association thinks that it will be only just and equitable that the Government will have to compensate the zamindars and the intermediaries of all grades up to the occupancy raiyats for expropriation of their rights, and the cost of such acquisition of rights and the annual charges of interest will add immensely to the national debt and will be a drain on the national resources of the province without any substantial benefit. In the absence of a data on this all important point, the Association thinks the present discussion to be mere academic.

As regards suggestion (2) the evils of such a system is well known and constituted one of the reasons for substitution of the Permanent Settlement in place of temporary settlement. Such a system would inevitably lead to oppression of the agriculturists and the Association is opposed to it.

As regards suggestion (3) the Association is definitely opposed to it. If the original theory of rent be a proportion of the produce of the land, the assessment is already being paid for the same and no occasion has arisen for imposition of a fresh tax. There have been considerations given in many shapes for the exemption of this amount from tax or revenue. It represents the return of the capital, industry and labour of people other than the Government and the Government cannot have any legitimate claim to it. At the present time and under the present conditions, it will be extremely hard and onerous burden upon the landholders; and will lead inevitably and automatically to the abolition of the zamindari system.

Q. 14. The Association does not advocate the abolition of the zamindari system. If the private property in land is recognised it follows that none should be deprived of his lawful property without compensation. Confiscation is not a solution in peaceful times. It ought to be given in cash amount, the interest of which at the present market rate will equal the average net income of the estate for the

last 20 years ending 1930-31. After their present experience the landholders are not likely to accept bond which may at some future date be treated as a scrap of paper.

Q. 15. If bonds are issued at all they should be redeemable after a fixed period (60 years at the latest) and the interest should be not less than 5 per cent. (income-tax free).

Q. 16. The effect of the purchase of the zamindaris by the State will revolutionise the social structure. The middle class and intelligentsia will disappear.

Please see answer to question 13.

Q. 17. If the zamindari system goes, it is illogical that the lower system of landlordism that follows from it should continue. It will be to the interest of the tenureholders that they should agree to be bought of, otherwise they will be subjected to the same treatment at the hand of the tenants as the zemindars. But it is the confirmed view of this Association that the abolition will not lead to any corresponding advantage to the tenants. Tenants of khas mahals and of estates recently purchased by Government at revenue sale do not find themselves better off than under private zamindars.

Q. 18. The Association cannot throw sufficient hints on this question. It is evident that the number of revenue officers will have to be increased and special tahsil offices with inumerable peons and servants are to be established in the mofussil.

Q. 19. It is doubtful if the raiyats would prefer to come directly under the Government if they know that the Government strictly realizes the rents from the raiyats. Khas mahal tenants have to pay their rents punctually failing which rents are realised by the certificate procedure. Whereas under private landlords rents are normally allowed to accumulate for four years before suits are instituted, which too are very few as compared with the heavy list of tamadi dues. Khas mahal tenants have limited rights and they cannot sublet.

Q. 20. This question has been dealt with in answer to question 11 (*ii*) which please see. This Association will only add that subinfeudation was not encouraged by the Permanent Settlement. The zamindars failing to meet the excessive revenue demand brought in persons with capital to develop lands, who undertook to pay the fixed jama. The creation of such permanent tenures has not affected the economic position of the raiyats.

Q. 21. If tenures are purchased by the State, the tenureholders will disappear and with them will disappear the middle class of Bengal. There will be loss of touch of the agricultural class with the educated middle class people. Many indigenous charitable institutions will

disappear. The public debt will multiply immensely. Please see answer to question 13.

Q. 22. The homestead and khas lands of zamindars and tenure-holders may be purchased by the State or the lands may be granted rent-free to them after deducting the capitalised price of rent or revenue from the compensation payable to them. In case of objection they may be placed as raiyats under the Government with respect to such lands.

All lands which zamindars and tenureholders cultivate in khas, enjoy in khas in any other way, or get cultivated through bargadars should be treated as their khas lands.

Q. 23. It is the creation of the British Legislation (Act X of 1859). Previous to this there were two classes of raiyats, viz., the khudkasht and the paikasht. Of these the khudkasht raiyats had certain privileges which were not possessed by the paikasht raiyats. British legislation has made away with this distinction and has created one uniform class of raiyats called occupancy raiyats (Act X of 1859 to Bengal Tenancy Act, 1885). By section 6 of the Act of 1859 every raiyat who cultivated and held land for a period of 12 years had a right of occupancy in the lands so long as he paid the rent. By the Bengal Tenancy Act, 1929, the occupancy raiyats were given the right of transfer of their holdings on payment of the landlord's transfer fee. By the Act of 1938 they were given unrestricted right of transfer without payment of any landlord's fee.

It is not correct to say that the raiyats were the actual proprietors of the soil in the past. Before the Permanent Settlement there were two classes of raiyats the khudkasht (resident) and paikasht (non-resident). The former were of two classes (*i*) the khudkasht kudeemee, who had been in possession of land for 12 years or more and (*ii*) the ordinary khudkasht—those whose possession did not run so long. They were raiyats cultivating land of their own village. None of them were held as proprietors of the soil. They were allowed to hold land so long as they cultivated and paid rent at the customary or pargana rate. Their rights were not originally hereditary but became so later by custom. They could not transfer their holding without the consent of the landlord. Both of them had to take permission of the landlord to cultivate different crops. Their rents were liable to enhancement. The paikasht raiyats were not residents of the village but mere sojourners. Their status was that of tenants-at-will.

Q. 24. The Hindu jurists say that the field is his who has cleared it. The King appropriates a portion of the produce because he affords protection to the cultivator. The above doctrine merely secured to the

cultivator the right to occupy. In India squatting creates tenancy but that cannot import proprietorship of the soil.

Please see answer to question 4.

Q. 25. The Association is of opinion that if occupancy right be accepted as a development of the right of the actual occupier of land, which it undoubtedly is, it follows that such rights should be confined to actual cultivators of the soil and should not be extended to non-cultivators.

Q. 26. On the principle enunciated in question 25, occupancy rights should determine on ceasing to cultivate or occupy the land. Raiyats who therefore sublet their entire holding should lose their rights of occupancy. Those who have sublet may be allowed to retain occupancy rights only—

(*i*) if from disease, minority, female succession or such like causes they have to sublet,

(*ii*) if they have not sublet the entire portion of arable land and maintain plough and cattle themselves.

Q. 27. The question of non-agricultural tenants was not before the framers of the Permanent Settlement. The Government reserved the right to protect the dependent talukdars, the raiyats and other cultivators of the soil and there was no mention of them anywhere in it. Its main object was to improve the condition of agriculture and extend cultivation.

The Association is not in favour of granting occupancy right to non-agriculturists. The whole community is not interested in their security as in the case of agricultural tenants. If the principle of private property on land is accepted, it is only fair and equitable that the relations between landlords of non-agricultural lands and non-agricultural tenants be governed by the law of contract.

Q. 28. In view of the vast difference between tenants of agricultural and non-agricultural lands noted in answer to question 27, there is no reason why occupancy right should persist in lands converted to use for non-agricultural purposes.

As the income from non-agricultural lands are subject to tax under the Indian Income-tax Act, there seems to be no justification for levying further additional taxation on such converted holdings. The Association, therefore, opposes the levy of any additional tax on such lands.

Q. 29. The number of bargadars, bhagchasis, etc., are on the increase no doubt, but the extent of the increase of such share-tenancies can only be gathered from Settlement reports of different districts.

In these days of economic depression share-tenancies are becoming popular because under the barga system the risks are distributed between the owners of lands and the cultivators. It is more profitable to the landowners and less risky to the cultivators. It suits the cultivators with no capital and ensures easy collection to the landowners.

Q. 30. If, as a matter of fact, the number of bargadars, etc., are on the increase, the Association thinks of the causes suggested as follows:—

(1) Not at all correct, for the increase of bargadars cannot be stopped by granting them statutory rights.

(2) This is partly correct.

(3) It follows as a corollary to clause (2) above. Voluntary sales have been frequent owing to the raiyats being unable to pay their debts due to low price of crops. The non-transferability of occupancy rights really served to preserve this class of people who are intellectually inferior, who do not understand their own interests and are extremely lethargic. Litigation and social needs overstep their individual means and they are thus led to incur debts. Propaganda should be started to check these habits and they should be supplied with supplementary source of income by economic and industrial developments.

Q. 31. There can be no definite answer to the first part of the question as the areas held by bargadars vary enormously.

It is difficult to say for want of statistics if the majority of bargadars also hold raiyati holdings or under-raiyati holdings. Undoubtedly, many bargadars hold such holdings.

Q. 32. It all depends on the meaning of the term "barga system". "Barga system" is really a labour contract. The lands they cultivate are khas and private lands of landlords, lands of religious institutions and in many cases lands of raiyats and tenureholders who cannot do it themselves, because of minority, sex, religion, and other disabilities. In most cases the landlords supply them with seeds and other expenses of cultivation. The bargadars are mostly hired and landless labourers.

If right of occupancy be given to bargadars, non-agriculturists in possession of land will be unable to cultivate their lands. Even a genuine cultivator in the years of his incapacity and forced absence will hesitate to let out lands in bhag and rather will prefer to let it lie fallow. The result will be that large areas of lands will lie waste, middlemen will be ruined and bargadars will be thrown out of their only means of livelihood.

On the contrary, the Association thinks that the system should be encouraged from the economic point of view. Considering the backward condition and unscientific condition of agriculture in Bengal, and

the poverty and illiteracy of agriculturists, facilities should be given to such system of cultivation and production of crops so that men with means and intelligence can join with agriculturists for better production of crops.

As regards protection, no case has been made out that they are oppressed and they need protection.

Q. 33. Please see reply to question 32.

Barga system is economically sound though it may be abused to prevent *bona fide* cultivators from acquiring rights in land. But such abuses are common to all systems. The bargadars pay only a share of the produce, so that if there is no crop, he does not pay at all.

Q. 34. In answer to question 32, the difficulties raised by this question have already been discussed.

If the bargadars be given occupancy rights, it is natural that the landlords, tenureholders and some classes of raiyats will try to keep lands in khas possession rather than lose control over them. Thus, a large portion of the lands may be allowed to remain fallow. The owners of lands, who now employ bargadars will suffer loss in income and a large number of men, mostly tenants without sufficient land and landless labourers will undoubtedly be thrown out of employment.

Q. 35. The proportion is always fixed by custom, which is usually half. It should not be fixed by law but left to be regulated by local conditions and by the law of supply and demand. Obviously, the proportion would vary according to the nature, terms and other conditions of cultivation and the nature of crops raised, e.g., rice, jute, sugarcane, etc.

Q. 36. For a satisfactory answer to this question, the Association has not got sufficient statistics. It is a known fact that wages of agricultural labourers vary considerably in different years and in different parts of the country.

Q. 37. Answer to the first two questions is in the affirmative. The further facilities given by the Act of 1938 has increased this tendency. The combined effect of the new amendments and the Debtor's Act is to make the raiyat sell his holdings or a portion of it whenever he wants money badly.

The Association thinks that it is prejudicial to the interest of the cultivating raiyats as a whole. Restriction about such transfers to agriculturists only will be inoperative as very few agriculturists possess the necessary fund to acquire more lands.

Q. 38. The test should be so much of land as can be cultivated by one plough and one pair of bullocks. It is thus an area of 20 to 25 bighas according to nature of soil.

Q. 39. The answers to both the questions are in the affirmative. The laws of inheritance, statutory rights of transfer, all tend to sub-division of holdings and so long as these laws continue there is no remedy.

Q. 40. Consolidation of holdings is certainly desirable, but it is not practicable owing to the Hindu and Muhammadan laws of inheritance and the present right of the holders. Consolidation should be made permissible so that when a tenant so desires, lands with similar rights and interests may be amalgamated. Besides, in case of transfer by sale, a right of pre-emption may be given to owners of adjoining lands as well as to co-sharers as under section 26F (1) of the Bengal Tenancy Act.

Another way of economic cultivation would be to encourage agricultural farming by persons or firms intending to invest money in land, provided their scheme of cultivation be approved by the authorities. Those, whose schemes will be so approved, may be given facilities to acquire sufficient areas for agricultural purposes by the Land Acquisition Act.

Q. 41. Special facilities may be granted though the benefit may not be substantial. The laws of inheritance will make a short work of it.

Q. 42. No. In the present stage of agriculture in Bengal, it is desirable that large areas should come under one control for the purpose of scientific cultivation and that collective farming should be encouraged.

But accumulation of large areas in the hand of cultivators with small capital is not desirable. For then the raiyati holdings would be acquired not for the purpose of farming but for merely letting out the land to under-tenants.

For the purpose of farming there should be no maximum limit at the present time.

Q. 43 & 44. Coparcenary by itself is not detrimental to cultivation. Coparcenary, when it leads to subdivision of holdings, is detrimental to cultivation. But the Association does not think that any practical remedy can be given by legislation. The best remedy will be to demonstrate to cultivators the beneficial effect of economic holdings. If such demonstrations be convincing the cultivators themselves will seek to provide themselves with such economic holdings on voluntary basis. Then special facilities may be given by exchange or otherwise as mentioned in answer to question 40.

Q. 45. If it implies joint collection of rents, the Association does not think it desirable.

Q. 46 & 47. There is nothing in the Permanent Settlement Regulations which can be interpreted by law to debar the rights of the zamindars to enhance rents or rate of rents payable by tenants under the Permanent Settlement. If that was the intention, nothing would have been easier than to incorporate such provisions in the Permanent Settlement Regulation itself. On the contrary the language and legal interpretations of the Permanent Settlement Regulation and subsequent Regulations lead to opposite conclusion.

(1) *Article 6.*—The language of Article 6 of the Permanent Settlement Regulation is not consistent with legislation in bar of enhancement of rent. It speaks of the benefit to the zamindars who are to enjoy "exclusively the fruits of their good management and industry" and it does not appear to exclude the idea of getting enhanced rent for lands already let out.

(2) *Article 7.*—Article 7 of the Permanent Settlement Regulation reserves the right of Government to make laws "for the protection and welfare" of the tenants, which was expressly made, as the article says "to prevent any misconception of the foregoing articles." It is a clear indication that the Permanent Settlement Regulation itself by its provisions did not secure the rights of tenants to hold at the rent or rate of rent paid at the time of the Permanent Settlement.

(3) Subsequent legislation against enhancement of rent by zamindars proceed not on the basis of their violation of any terms of the Permanent Settlement, but on the footing that the Government was exercising the right for protection of tenants reserved to it in the Permanent Settlement Regulations.

(4) If the fixity of rents or rate of rents were contemplated by Government under Permanent Settlement Regulations, some traces of it would have been found in the subsequent legislations of Act X of 1859 and Act VIII of 1885.

By section 6 or section 50 of the Bengal Tenancy Act the legislation made the rent paid at the time of the Permanent Settlement unalterable, not because the rent was unalterable at the date of the Permanent Settlement, but on the basis that a rent which has remained unalterable for so long a time should not be allowed to be disturbed.

Q. 48 to 50. In view of the answer to the questions 46 and 47, these questions do not arise.

Q. 51. The Association does not consider that it was the intention of the framers of the Permanent Settlement Regulation that all future settlement of waste lands should be at the pargana rate. On the other hand, it was the avowed intention of Lord Cornwallis to preserve the sanctity of contract and the said Regulations assured to the zamindars

the increase that may be their due by their own industry and good management. If there was any contrary intention, it would have limited the amount of increase that might be made. It is further to be noted that in these days areas for cultivation were extensive but tenants were scarce and the zamindars could ill afford to scare away tenants by imposition of high rates.

Q. 52. The principle of determining fair and equitable rents in Bengal cannot be fixed on any one basis. For it depends on the size, suitability and situation of the land in the locality.

(1) and (2). *Economic rent.*—The systems are cumbrous and difficult to work. Apart from the question of determining the quantity of produce, the value of produce and the cost of cultivation, it does not take into account the industry and labour and intelligence of the cultivator which is a factor in the yield of the land. On the principle of profit, a small holding (2 bighas) after payment of cost of cultivation and food of cultivator's family, will never yield any income at all.

(3) *Share of produce.*—This is the safe universal principle that may be adopted and that is easily workable. If rent forms a definite share of the produce and is paid in cash at its prevailing money value, the principle does not seem to be unfair, as the ratio of rent to produce is being maintained in all circumstances. The criticism that poorer land pays the higher rent under this system does not seem to be justified.

(4) *Market value.*—The consideration of the market value of land is not far removed from the operation of the principle of competition. On account of the present economic slump the market value of land has gone down abnormally and the system is sure to give abnormal figures. It does not follow that lands for which no purchaser can be found out at times, shall pay no rent at all.

(5) Customary rates revised according to the change in prices of staple products would be a cumbrous and costly procedure; and it will be difficult to ascertain customary rates as in most cases there is not one customary rate.

(6) *Competition.*—Competition regulates the rate of rent in progressive society and cannot be avoided in any case. Whether land rents will increase or decrease depends on the relation of population to improvements. When the population keeps ahead of the improvements rent will rise. When the improvements keep ahead of the population, rents will fall.

Q. 53. It is not possible to answer this question *without statistics.* The productivity of the land is always taken into account and the rents are fixed mostly by competition depending on the great demand for

land. But, whatever be the basis of rents originally, at the present time majority of them may be described as lump rents for a specified total area. It is true that rates for lands of similar value vary in the same village due to factors mentioned in answer to question 54.

Q. 54. The Association have no such experience.

The factors are—

(*i*) the size of the holdings, (*ii*) quality of the soil, (*iii*) productivity, (*iv*) situation and marketing facilities, (*v*) irrigation facilities, (*vi*) liability of floods and other natural calamities, (*vii*) healthiness of the place, (*viii*) prosperity of the country or otherwise at the time of settlement, (*ix*) the reputation of the landlord, (*x*) nature of crops that can be raised in it.

Q. 55. A uniform basis of cash rent per bigha is not desirable, but a uniform basis or rate is essential. If a proportion of the produce be fixed as rent, then only there may be a uniform basis. But the basis is to be regulated by the money equivalent of rent in relation to the gross produce. Thus fertile land will pay more in money equivalent and infertile land less.

As the quality of land is the factor in determining such a uniform basis, it will be necessary to prepare a new soil map and new records of rights classifying lands more definitely than the present survey settlement papers according to the fertility of the soil, situation, etc.

Q. 56. The proportion of a definite share of the produce may preferably be fixed at one-fourth, but it should be alterable according to the money value of the produce.

Q. 57. The rent should not be fixed in perpetuity, but should be re-examined from time to time. The rent should be revised at intervals of 15 years on the ground contained in the Bengal Tenancy Act.

Q. 58. There will be no advantage. An elaborate enquiry will be necessary every year to find out the assessable income of agriculturists, which is impracticable and highly expensive. The Association agrees with the criticism of the method contained in the question itself.

Q. 59. The Association does not consider the existing principles and procedure for fixing fair and equitable rent to be defective. The question is very general and the Association refers to its answers relevant to it under questions 52 and 60 to 64.

Q. 60. In the case of improvement by fluvial action neither the landlord nor the tenant does anything to earn the increase. In such cases, enhancement is justified on the theory that it is the landlord proprietor's land which is improved.

It is not fair that the tenant shall get all the benefits of fluvial action. The extra profit ought to be divided half and half.

Q. 61. No. To disallow enhancement on the ground of rise in price will lead to similar disallowance of reduction on the ground of fall in price.

Q. 62. The principle enunciated in this question will lead to absurd results. There should be no discrimination and the rule should apply equally to all. If the rents be based on a share of the produce, there can be no objection to applying the principle to this class of tenants as well.

Q. 63. If there were provisions in law for reduction on the ground of prevailing rates, there can be nothing objectionable against a corresponding provision for enhancement on the same ground.

There is no reasonable ground for apprehension that the adjustment of rent will be carried out without any regard to these considerations. The tenants are given full right to make improvements (Bengal Tenancy Act, section 77) and are protected against ejectment under section 82, Bengal Tenancy Act. In any case, the raiyats must have been fully compensated by the increased yield so long for the improvements made long ago.

Q. 64. Non-interference should be the rule and interference the exception in case of contractual rents. If the prevailing rate of rent is accepted as the basis for the fixation of fair rent, the limit of rent is practically settled and accordingly a specified provision of law for reducing high contractual rents or for limiting rents for new settlements is not essential. A rigid rule about fixity of rent for new settlement will retard progress and will inevitably result in the demand for a high salami.

Q. 65. (*a*) There is no such temporarily settled estate in this district and this Association will not therefore deal with it.

(*b*) The question is too broad and general for a satisfactory answer. Some of the defects are—

(*i*) There is no provision for settlement of fair rents for non-agricultural holdings.

(*ii*) There are no simple and definite rules which can easily be applied and fair rent worked out.

(*iii*) Maximum and minimum rents at a certain proportion of the yield of the land should be fixed.

(*iv*) The superior landlord should be empowered to have fair rent settled for all grades of tenants under him, otherwise in a mahal where

the rents are low and the tenureholders intervening, it is not possible to level up rents. This leads to hardship in cases where the landlord has effected improvements in the mahal by irrigation, embankments, etc.

(*v*) As regards the procedure for settlements of rents, the trial should be by the Civil Court. The Revenue Officers and kanungoes are not trained for sifting and weighing evidence and are not properly equipped for constructing leases and title deeds of parties.

Q. 66. There are no such cases to the knowledge of this Association. As a matter of general rule, the Settlement Officers have exercised the discretion given to them under section 35, Bengal Tenancy Act, in favour of raiyats and the Special Judges seldom interfered with such exercise of discretion.

Q. 67. Revisional Settlements of Land Revenue are invariably made by Government with the object of enhancing revenue.

Q. 68. The Association has no knowledge.

Q. 69. It was undoubtedly a mistake and it made the conditions of the tenants worse by saddling them further with the recovery of costs.

The grievances of tenants, if rents are enhanced and settlement costs realised during fall in prices, cannot be described otherwise than as legitimate.

Q. 70. The variation is due partly to the original rate of rent being fixed more or less on customary basis and also partly to the difference in demand for land owing to local conditions, e.g., transport facilities, marketing facilities, competition, proximity of mills and towns.

Q. 71. This Association has not got sufficient experience on the subject and would not deal with it.

Q. 72. Average yield of jute is 12 to 15 maunds per acre and cost of cultivation is Rs. 3 per maund or Rs. 36 per acre.

Of paddy—15 maunds to 18 maunds per acre and cost of cultivation Rs. 3 per bigha or Rs. 10 per acre if by hired labour.

Of sugarcane—No information.

Q. 73. It is a fact that the fertility of the soil and its productivity is decreasing. The reason is that manure is seldom used and the lands are becoming exhausted.

The Government has scarcely taken any steps to improve the fertility of the soil or arranged for distribution of manures or seeds.

Q. 74. Broadly speaking, very little advantage has been taken of the Acts in question, because of the poverty and illiteracy of the people and their inability to pay further taxes.

Q. 75. This Association has no information on the subject.

Q. 76. Salami is realised by Government in khas mahal. The exact period is not known, but the custom is an old one.

Q. 77. The present uneconomic condition of the raiyats of Bengal is due primarily to two causes—(1) the primitive method of cultivation which is followed by raiyats, resulting in low production and (2) the unbearable pressure on land because of non-development of modern industries and gradual decay of old handicrafts. The general policy of the Government never concerned itself with this aspect of the economic condition of the raiyats and never cared for an economic planning for its improvement. Rather the later policy of the Government has led to aggravate the uneconomic position of the raiyats by destroying their credit. The Bengal Agricultural Debtors Act has swept off the last vestige of credit of cultivators. It is a sound principle of economics that the capacity to pay goes with the capacity to borrow, and that when the right to borrow is extinguished a person becomes an insolvent financially and loses all credit. The present policy of Government has further destroyed the habit of payment of just dues by raiyats when he is in a position to pay and the idea has gained ground that if sufficient clamour is made Government will yield and make any concessions so that just dues need not be paid at all. As a result, the tenants are becoming more improvident than before while their debts are accumulating. The sources of their credit, viz., loan offices, agricultural banks, have been choked and the village mahajans have been driven out altogether while there is no provision made for sources of alternate credit.

As to the land system, meaning thereby the zamindari system, it does not seem to be responsible for the condition of the raiyats, for the condition of the raiyats in khas mahals is none the better than zamindari raiyats.

As to the question of modifications it is essential that the present chaotic condition of rural credit should be rehabilitated by repeal of the Bengal Agricultural Debtors Act. The tenants should be trained to habits of punctual payment so that the institutions from which they derived help at the time of distress may function once more. For until credit is re-established it is not possible to have any economic development. It is also of prime necessity that the Government shall make greater effort to find ways and means to increase the wealth of the masses. Mere change of land laws giving the tenants greater right in land or temporary relief from the burden of rents will serve no useful purpose.

It is essential that the economic condition of the whole country should be bettered on sound economic planning. The tenants should be taught the modern improved method of agriculture, use of improved seeds, manuring, etc., and steps should be taken for introduction of additional crops during periods when no crops are raised. Marketing facilities should be given to the cultivators for a better return for his crops through co-operative credit societies to control the price and sale of paddy and jute and to eliminate the middlemen's profit by this process as much as possible. The further pressure on lands must be minimised by the introduction of large industries and cottage industries. The supplementary source of income should be supplied to the raiyats by opening up gigantic rural development works by Government and giving tenants facilities to work under such undertakings. Zamindars, tenants and local bodies can all work with the Government for any scheme that may be evolved for such purposes.

For a district like Howrah with immense industrial possibilities, it is easy to supply extra source of income to the raiyats if the Government care to develop the riverside area on the west bank of the Hooghly between Sibpur and Uluberia along which most of the mills are located. The whole area lying as it does along the trade route to Calcutta can easily be industrialised if an artery road be built along the Howrah-Uluberia Road proposed by the District Board, Howrah, in its resolution No. 877, dated 31st July 1937, connecting Calcutta with all the scattered mill areas along the Hooghly, and the Grand Trunk Road from Sibpur be continued along that route with the terminus at Uluberia, as per resolution of this Association in the Appendix "A" hereto annexed.

For cottage industries of this district with a huge production of cocoanut, this Association strongly recommends the taking up and utilisation of cocoanut fibres for production of coir goods, ropes, etc., as recommended by the Director of Industries in his Recovery Plan for Bengal.

Q. 78. It all depends on the size of the holding. If it be 3 acres, i.e., 9 bighas, the yield is 54 maunds of paddy. The price of paddy is Rs. 81 and cost of cultivation at Rs. 3 per bigha is Rs. 27, which leaves a balance of Rs. 54 per annum as his income.

The Association has no such statistics from which a satisfactory answer be given to question (*b*).

Q. 79. It is not satisfactory. For by the time the records are published, they have ceased to state the real state of things by subsequent transfers or deaths. It is impossible to maintain a correct record unless every change of possession be made dependent on records being corrected or notice being issued to the authorities.

The Association has no knowledge of the system in vogue in the United Provinces.

Q. 80. The question has been dealt with in general in answer to question 77. For a district like Howrah placed favourably as a suburban district of Calcutta with the construction of the New Howrah Bridge the Association suggests immediate improvement of its river-side areas and developing it industrially as a means of extra source of income to the cultivators.

Q. 81. The answer to the first part of the question is in the affirmative. Regarding surplus population, it is difficult to arrive at a figure in the absence of statistics which the Association does not possess.

Q. 82. The pressure will be relieved by more agricultural production and also by diverting the agriculturists from land to other means of livelihood. Establishment of industrial concerns, both large and small, and revival of old cottage industries will help the surplus agricultural population. The Association does not think that Government-aided factories are the only means to divert people from land. Facilities are to be given to start private mills and factories in localities where such areas exist, and such areas with industrial possibilities are to be explored and developed by Government by road communications. Unaided private factories will do as well as Government factories and will employ no doubt part of the surplus agricultural labourers (*vide* answer to question 80).

Q. 83. There is no sufficient organisation, Government or private, to advance loans to agriculturists. The co-operative societies are practically the only Government institutions for providing agricultural credit, but they failed to meet the need of agriculturists because of inefficiency and dishonesty. Banks and warehouses may be started in every village with interest at 6 per cent. for relief of agriculturists. But the Association thinks that until the agriculturists are more solvent and the present chaotic condition of agricultural credit brought about by quick legislations is stabilised no system of giving them credit will ultimately be successful. Stability of tenancy legislation and debt legislation is essential, as frequent changes of these Acts instead of protecting the tenants are damaging their credit and encouraging the tenant-debtors not to pay their dues. As a result all co-operative credit societies are in a moribund condition. The village mahajans are hard hit and are no longer advancing money and the tenants are to sell their land to raise money. By recent legislations all the private sources of credit to cultivators have been destroyed. It is important to note that in all legislations both sides of the question ought to be sifted and that one-sided legislation destroys credit. The village mahajan is a necessary evil and indispensable. His abuses should be controlled by Acts like Usurious Act but reasonable facilities ought to be given him to

realise his dues if it is intended to maintain this age old institution. Similar facilities are also needed for other credit societies. Debt Settlements should always be on equitable lines.

Q. 84. The Association has no statistical data on which this question is based.

Q. 85. The Association cannot add to what it has already said in answer to question 83.

Q. 86. Debt Settlement Boards have so far succeeded to destroy rural credit in the country. The Association is of emphatic opinion that the Agricultural Debtors' Act should be repealed. The system of setting up debt conciliation board should be abandoned and the problem of adjustment of agricultural debts should be left to the ordinary law courts for adjustment by disallowing high rate of interest. Rent is to be excluded out of the definition of debts.

Q. 87. If it is possible for the Government to find money for the purpose, the system would be satisfactory, provided the banks are placed under efficient and honest management. But the rehabilitation of rural credit is of prime necessity and punctual payment is to be made obligatory on cultivators, otherwise such Banks are doomed to be failures.

Q. 88. In Howrah district land mortgage bank has not been established to our knowledge and this Association has not the detailed knowledge of its functioning. But generally speaking, as these banks advance money on mortgage of agricultural lands from raiyati holdings, they are mostly bankrupt and are not functioning owing to fall in price of agricultural lands and non-payment of their dues by agriculturists.

There can be no improvement so long as punctual payment cannot be enforced.

Q. 89. Except the privileges granted to a limited body of landlords to realise rents by certificate procedure (since abolished under the new Amendment, 1938) the landlords have no machinery for prompt realisation of rents. The procedure for realisation through civil courts is both cumbrous and costly to the landlords and the tenants alike.

The procedure of rent suits and rent executions and sale procedure should be made as simple and as inexpensive as possible and the present procedure amended accordingly. There should be no court fees levied on uncontested rent suits and no leave should ordinarily be given to defend. False pleas of payment of rent should be penalised and provisions should be made to declare recalcitrant tenants as habitual defaulters and have summary proceedings against them.

Q. 90. The recovery of rents through certificate procedure is not objectionable if the scantity of rent be properly appreciated. It is

speedy, less expensive both for the landlords and the tenants, who are ultimately burdened with the costs of suits. It is unpopular because it is effective, though as a financial proposition it is a distinct gain.

Summary procedure like certificate procedure based on the principles of the Public Demands Recovery Act, 1913, is the best to be adopted for speedy realisation of rents.

Q. 91. The question is too elastic. A simpler Act will always be welcome. If it is possible to re-enact the provisions of the old Regulations and earlier Acts by making simpler and up-to-date provisions, the Association has nothing to say against it.

Q. 92. The question is too broad to be answered satisfactorily in so short a space. The Acts which operate most harshly on landlords are—

(1) Bengal Land Revenue Sale (Act XI of 1859). Provisions should be made for allowing zamindars and patnidars under defaulting zamindars to deposit sale money after revenue sale as under Order 21, rule 89, of the Civil Procedure Code.

(2) The Embankment Act.

(3) The Cess Act.

(4) The Sanitary Drainage Act.

(5) The Primary Education Act.

(6) Sections 54-56 of the Village Chaukidari Act (*Act VI of* 1870 B.C.).

The dues under these Acts (item Nos. 2-5) are to be realised from the tenants directly. Realisation of khudra niskar cess by the landlords often result in losses and should be discontinued.

Sections 54-56 of the Village Chaukidari Act are often misused by unscrupulous collecting panchayats. Besides there is no reason why all public dues are recoverable under Act III of 1913. Chaukidari rents should be realised under provisions of Act XI of 1859.

Q. 93. The economic effect of the amendment of 1938 on the landlord is his loss of transfer fees and kharij fees and consequent reduction of his income. By abolition of the right of pre-emption the landlords cannot choose their tenants and prevent undesirable persons coming in as tenants. Thus, it is becoming difficult to realise rents or procure agricultural labour.

The effect on the tenant is that by making the transfers easy they are gradually losing properties and are becoming landless labourers.

The Association has no such statistics in its possession. From local conditions of this district it may roughly be estimated at 10 per cent. of the total income.

Appendix "A".

Resolution of the Howrah District Landholders' Association on the Howrah-Uluberia Road, dated the 3rd December 1938.

That this meeting of the Howrah District Landholders' Association finds in the published report of the Special Officer, Road Development Projects, a bare mention of "a strip of country along the western bank of the Hooghly of this Howrah district from Bally in the north to Uluberia in the south within which the industrial activities of the district are mostly confined"; but fails to discover any road project to connect these industrial areas from Sibpur to Uluberia by way of developing this river area of this district. Whereas the existence of an artery road, viz., the Grand Trunk Road through the different industrial localities in the north from Sibpur to Chinsurah has led to immense industrial development and growth of population in those localities, the absence of such a road in the south of the district from Sibpur to Uluberia has crippled the industrial growth and populous development of this area, though it lies along the important trade route of the Hooghly towards Calcutta. The landlords of this district draw special attention of the Government for the development of the said riverside area with immense industrial potentiality by taking up the construction of an artery road which will provide an unbroken link between the various industrial localities of this area and Calcutta which road, with the construction of the new Howrah Bridge, will provide extra accommodation for the surplus population of Calcutta and will make history in the economic regeneration of the district, so keenly needed in these days of agricultural depression and will prove a boon to the agriculturists of this district by providing them with supplementary source of income.

This meeting, therefore, is of opinion that, failing the construction of a riverside road, the provision of roads in this riverside area by the District Board along existing roads in terms of its resolution No. 877, dated 31st July 1937, as forwarded to the Collector and recommended by him in his memorandum No. 3648G., dated 9th August 1937, will serve the purpose noted in this resolution and recommends—

(1) that the sub-section Mohiary to Kulai from the junction at Mohiary in route "D" of the skeleton map, be continued south through Andul along the suggested route "R" in the District Board skeleton map along District Board Roads Nos. 14 and 5 to Kulai, to effect a junction with route "F" at Panchla and then with Bauria and Uluberia by route "J";

(2) that the sub-section Andul to Rajgunge, being the route "T" of District Board skeleton map along District Board Road No. 19

and a bit of No. 8, be taken up to connect the interior portions of the district beyond Domjur along route "D" via Mohiary, route "R" via Andul to Rajgunje, which will open up the remote areas of the district to the mill area of Rajgunge and has immense trading possibilities;

(3) that with a view to give quick impetus to such a scheme and to develop this riverside area, the present Grand Trunk Road, terminating at Sibpur, should be continued along the projected Howrah-Uluberia Road referred to above to form a new terminus at Uluberia.

That this meeting further draws the attention of the Government to the special features of this district by reason of its neighbourhood of Calcutta and its immense industrial possibilities along its riverside area which distinguishes it from other remote interior districts where communication is the only question; and requests the Government to consider if the road building scheme, out of the proceeds of the motor vehicles tax, will be devoted solely to the development of communication and not also to the development of areas where such areas do actually exist, by the provision of roads. For in a district like Howrah, intersected by eight sections of railways through its narrow easternmost approach to Calcutta and the nearness of the Bengal Nagpur Railway along its riverside area, if the question of communication be made the predominant factor, any scheme of road that will substantially benefit the district, will be ruled out of order under the old road-cum-rail competition and will thus permanently shut out the district of any benefit that is to accrue out of the road development fund. This meeting therefore requests the Government to make a careful note of the fact that for a suburban district like Howrah, or as a matter of fact for all suburban districts of Calcutta with the peculiar position of its railways, there is bound to be road-rail competition within a radius of 20 miles of Calcutta and to stick to the principle of road-rail competition in such areas will check all economic development of such suburban areas.

That as the supplementary roads are still under reference this meeting recommends that a representative of this Association be called in for all future conference relating to further road schemes of this district.

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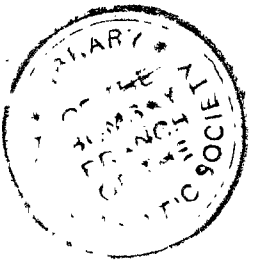

Reply by the Jessore Landholders' Association.

Q. 1. The duties and obligations of the zamindars under the Permanent Settlement were the following:—

(1) to discharge the revenues at the stipulated periods without delay or evasion;

(2) to conduct themselves with good faith and moderation towards their dependent taluqdars and raiyats—such as not to collect abwabs, etc., and to give dakhilas for payments made.

The description in question 1 is defective, is as much as the term "generous" is nowhere found in the Act, and the generous treatment is not required under the Act.

The description is not exhaustive.

The Permanent Settlement did not take away any rights of the tenants.

Q. 2. It is an indispensable right of the proprietors of lands to choose their tenants or regulate the usage of the land, and when the pre-existing proprietary rights of the zamindars were recognised under the Permanent Settlement, the right to choose their own tenants or to regulate the usage of the land was recognised as a necessary consequence.

Q. 3. The zamindars played a very important part in the economic development of the country since the Permanent Settlement.

They have not failed to perform the functions expected of them at the Permanent Settlement.

(1) They have reclaimed vast tracts of waste lands and converted them into culturable ones, and enhanced the agricultural resources and brought about ease and prosperity of the province.

According to Colebrooke, the Assistant Collector of Tirhoot in 1786, two-thirds of Bengal were waste lands and jungles. (*Vide* Colebrooke's Husbandry of Bengal by Robert Knight, page 17.)

Mr. Pattle, a former member of the Board of Revenue, said—

"The country brought under the Decennial Settlement was for the most part wholly uncultivated. Indeed, such was the state of the country from the prevalence of jungle infested by wild beasts, that to go with any tolerable degree of safety from Calcutta to any of the adjacent districts, a traveller was obliged to have at each stage four drums and as many torches."

A living instance of such reclamation can be had in Barendra Bhumi in Rajshahi Division extending over lacs of acres, which were almost dreary jungles at the time of the Permanent Settlement. The zamindars recruited Santhals from a different province and reclaimed such large tracts.

The total cultivated area in Bengal is, at present, 46,000 sq. miles. The raiyati assets have improved from 2 crores 85 lakhs in 1793 to 12 crores, according to survey and settlement reports. This has improved the exports from nothing to a vast sum of £30,000,000 sterling a year and the gross value of the harvest from £32,000,000 to not less than eight times that amount, viz., £250,000,000. Since the Permanent Settlement, the province is getting, at an average calculation, about 40 crores in normal time from jute.

On the 26th October 1883, the Commissioner of Burdwan reported to the Government of Bengal as follows:—

"The Bengal of to-day offers a startling contrast to the Bengal of 1793: the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement—a great portion of this increase is due to the zamindari body as a whole, and they have been very active and benevolent factors in the development of this prosperity."

Sir Ashley Eden, in 1877, in a speech at Dacca, said—

"Great as was the progress which I knew had been made in the position of the cultivating classes, I was quite unprepared to find them occupying a position so different from that which I remember them to occupy when I first came to the country. They were then poor and oppressed with little incentive to increase productive powers of the soil. I find them now as prosperous, as independent, and as comfortable as the peasantry, I believe, of any country in the world; well-fed, well-clothed, free to enjoy the full benefit of their labour, and to hold their own or obtain prompt redress for any wrong.

(2) They are promoting and preserving the agricultural resources of Bengal intact by supply of seeds, implements of agriculture and husbandry, and cultivation costs to the tenantry in some places, by irrigation of culturable lands of the tenants in some places, by protection of the tenants' cultivation by construction of bunds, artificial sewers, etc., and thereby preventing an access of saline water into culturable lands—which contingency happening, the cultivation will fail for almost three consecutive years in some places, by construction and preservation of bunds to prevent flood-waters running into culturable lands and causing havoc on crops, by distribution of food grains and money at the time of scarcity and granting remissions of

rents, etc., and by suspension of rent collection and also by effecting improvements in the estates in various ways.

The above is partially borne out by the following official reports:—

"The Lieutenant-Governor has read with satisfaction the testimony borne by the Collector of Mymensingh to the kindness and consideration which the district zamindars, as a body, have shown in forbearing to press their raiyats for rent during this year of difficulty. The Collectors of Dacca and Faridpur have recorded similar remarks. These circumstances reflect credit on the zamindars as a body, and are duly appreciated by Government." (*Calcutta Gazette*, 25th November 1874.)

"Lord Ulick Browne reports also favourably of the conduct of the zamindars in the Presidency Division. Many zamindars have behaved towards their raiyats with forbearance and many with liberality during the scarcity."

"The Commissioner prominently brings to the notice of Government the names of Raja Kamal Krishna and Raja Narendra Krishna and the heirs of Sir Rajah Radhakanta Deb, in the 24-Parganas; of Mr. Sibbald, Babu Surendra Nath Pal Choudhury, Babu Baman Das Mukherjee, Babu Naffer Chandra Pal Choudhuri and Molla Khodadad Khan in Nuddea." (*Calcutta Gazette*, 1st September 1875.)

"The conduct of zamindars (of Dacca division) is noticed as having been generally worthy of their wealth and position. Several of the Dacca zamindars distinguished themselves by liberality during the scarcity, conspicuous among them were Nawab Abdool Gunny, C.I.E., his son Khajah Asaneola Khan Bahadur, Rai Kalinarayan Choudhury of Bhowal, and the Kundoo family of Bhaggacul. Among Mymensingh zamindars, Babu Kasikishore Roy of Ram Gopalpore is noticed for his considerate and liberal conduct in remitting three months' rent and postponing the demand of three months more, to the inhabitants of 12 villages on his estate, whose houses were destroyed by the whirlwind of 19th March." (*Calcutta Gazette*, 1st September 1875.)

"The leading zamindars of the (Rajshahi) division did their duty most creditably in alleviating the distress occasioned by the failure of the harvest, and the Lieutenant-Governor has already acknowledged the good services thus rendered." (*Calcutta Gazette*, 6th October 1875.)

(3) They have been aiding and promoting the cause of education in Bengal.

From Calcutta University down to a village pathsala each educational institution—general, medical, science, engineering, commercial—is fed, from its construction up to its upkeep by substantial lump sums and recurring contributions from the zamindars and but for their help, they could not have grown up and reached their present position.

The above is partially borne out by the following official reports:—

"In Dinajpore, the resident zamindars are described as being inclined to assist education and from Rangpore the report is favourable. The munificence of Raja Promotha Nath Roy of Dighapathia in Rajshahi, in offering the large sum of one lakh and a half of rupees for the proposed Rajshahi College, has been suitably acknowledged by Government." (*Calcutta Gazette*, 30th August 1875.)

"The conduct of the zamindars (in Presidency division) has been with few exceptions worthy of praise. There were no serious quarrels with tenants in any district. In Nuddea the zamindars have shown great interest in education and in the future of the Krisnanagar College. Mr. Stevens names Babu Bamondas Mukherjee of Debgram, Babu Jagat Chandra Mukherjee of Muragatcha, Molla Khodadad Khan, Babu Prosanna Chandra Roy of Kurulgatchi, Babu Hiralal Shaha of Amla, Babu Srinath Choudhuri and Munshi Amir Biswas, a particularly active in educational matters." (*Calcutta Gazette*, 19th September 1877.)

(4) They have been assisting in the improvement of sanitary conditions of Bengal.

The zamindars have contributed substantially for supply of filtered water in towns and cities. In rural Bengal, the zamindars have excavated innumerable tanks and canals for supply of drinking water and for irrigation of the tenants' agricultural fields. Innumerable tube wells have been sunk to remove scarcity of drinking water, etc. In many places the zamindars have made substantial contributions towards the establishment of charitable dispensaries to supply free medicines to the tenantry.

The above is partially borne out by the following official reports:—

"Among the native zamindars, who have been distinguished for active benevolence and liberality, the Commissioner (Burdwan division) notices Babu Joykissen Mookherji in Hooghly, Babu Nabin Chandra Nag in Midnapore, Babu Radha Ballav Singh of Kunchiakole, Babu Damodar Singh of Hetampore in Birbhoom. The Maharaja of Burdwan, with his accustomed liberality, made a further donation of Rs. 10,000 during the year as an addition to his former subscription of Rs. 50,000 in aid of the dispensaries for the suppression of the epidemic fever." (*Calcutta Gazette*, 5th November 1873.)

"The Maharanee of Burdwan and Raja Jatindra Mohan Tagore are highly spoken of by the Collector of Midnapore as animated by a genuine desire to do their duty to their tenantry and spend money on drainage and improvements." (*Calcutta Gazette*, 18th October 1876.)

".....In Rangpore, Babu Nabin Chandra Roy Choudhuri, and Babu Gobinda Lal Rai have both made handsome grants of land towards the improvement of the drainage of the town. Other zamindars have also subscribed liberally for this work. Babu Nabin Chandra Rai Choudhuri has also made a grant of Rs. 20,000 towards the construction of an iron bridge over the Alkuri River." (*Calcutta Gazette*, 25th September 1878.)

"Ranee Swarnamoyee of Cossimbazar—This lady owns estates in Murshidabad, Dinajpore, Rajshahi, Rangpore, Pabna and Nadia. Her munificient subscriptions towards schools, hospitals and other public improvements have on many occasions been acknowledged by Government." (*Vide* Sir Richard Temple's Minute.)

(5) They have been financing and assisting the public works in Bengal.

In many places the zamindars have constructed roads and highways for the tenantry. In each mauza, village paths and roads pass through the khas lands of the zamindars and other landholders. A simple study of the zamindari khas khatian in each mauza will prove the above fact.

In every district, in the majority of cases, district and local boards have not acquired lands and their roads pass through the zamindar's land. The zamindars pay high cesses and revenue for the said lands and district and local boards possess large quantity of lands rent-free and cess-free.

The above is particularly borne out by the following official reports:—

"In most cases the zamindars have refrained from asking for payment of the compensation money to which they would be, by law, entitled on account of the land taken up for relief roads. The value of these gifts cannot be precisely stated, but it must be very considerable. The relief roads extended over a length of about 6,000 miles. Of this length a large portion must have been carried over land belonging to private landlords, most of whom have abstained from demanding compensation. The circumstances redound to the honour and public spirit of those concerned." (*Vide* Minute of Sir Richard Temple, Lieutenant-Governor of Bengal on the services rendered by the zamindars on the famine of 1874.)

(6) At the time of calamities caused by flood, fire and other natural accidents, and in case of failure of crops the zamindars help their tenantry with food, and cash money, and protect them from ravages of famine. Because of the existence of zamindars, the permanently settled areas of Bengal know not of famine. The zamindars of Bengal have been spending considerable amounts in charities every year.

The above is partially borne out by the following official reports:—

".....Many zamindars remarkably distinguished themselves during the late scarcity for munificence and charity. The Lieutenant-Governor has already acknowledged their liberality. The Maharaja of Burdwan, as usual, comes first in works of benevolence and public spirit....." (*Calcutta Gazette*, 18th August 1875.)

".....In Murshidabad, Rao Rajendra Narayan Rai of Lalgola is distinguished for charity to the poor and kindness to his tenantry, while the names of Maharani Swarnamoyee stands foremost in Bengal for works of charity in the Presidency Division." (*Calcutta Gazette*, 19th September 1877.)

"In most cases it is probable, and in many cases it is certain, throughout the distressed districts, that the zamindars and landholders of all classes have suspended the collection of a considerable portion of their rents. In other words, most of them have had their income seriously curtailed for a year or more. Many of them must have previously been living up to their incomes: and this should not excite any surprise, as they have families and numerous persons dependent on them. Their position in native society is such as to entail many expenses, such as are unavoidable in the joint family system, but are not at once obvious to Europeans who may have a more restricted standard of the family unit. All these circumstances must be considerably remembered when a general estimate is formed of their services in the cause of humanity. They must all have suffered at least temporary pecuniary loss, and some must have undergone grave inconvenience. Large numbers, perhaps, many thousands of lesser landholders, who cannot be formally designated, must nevertheless have suffered a severe distress, the full degree of which will never be exactly known. It will be found, too, that for the period of famine and scarcity, the land revenue is paid in by the zamindar in a manner which is satisfactory and creditable to the working of the Permanent Settlement..... As a general fact, I may mention that the total of the sums taken out by the zamindars, landholders, and merchants both European and native—chiefly by natives as advances from the Public Treasury—amounts to forty lakhs of rupees, or £460,000, partly for improvement of the land, partly for the benefit of the tenantry, partly for importation of grain. The advances will doubtless be punctually repaid. They were taken by the recipients not at all for their own benefit, but for the sake of doing good offices to those with whom they were connected by ties of fellowship, of neighbourhood, or of social relationship. The magnitude of the sum total represents a good effort made by the upper classes of society on this occasion."

(*Vide* Minute of Sir Richard Temple, Lieutenant-Governor of Bengal, on the services rendered by the zamindars during the famine of 1874.)

The said Minute further says about the commendable services of some of the individual zamindars during the famine—

"Maharaja of Burdwan—This native nobleman's charity has always been far reaching and his liberality has been repeatedly acknowledged by the Government and by his countrymen. During 1874 the Maharaja (though needing a change of climate by reason of indifferent health) stayed the whole year in Burdwan in order to encourage his people by his presence, and busied himself actively in the work of relieving distress. He opened relief houses in different parts of the Burdwan district, and at one time he was relieving 4,000 persons daily. He is believed to have expended on relief work and charitable relief more than £20,000, and the Commissioner reports that his "Charities were limited only by the demand made on them." I consider that he has on this occasion set a noble example, befitting his position as landlord of the largest zamindari in Bengal.

"Ranee Swarnamoyee of Cossimbazar—This lady owns estates in Murshidabad, Dinajpore, Rajshahi, Rangpore, Pabna, and Nadia. Her munificent subscriptions towards schools, hospitals and other public improvements have on many occasions been acknowledged by Government. This year she helped her tenants and aided the Government relief officers in every possible way. She imported grain and distributed it in her villages, remitted or suspended the rent of distressed raiyats, and made herself responsible for the repayment of Government advances. By her munificent conduct on this occasion she has continued to merit the commendation bestowed by my predecessor, who mentioned her as being among the best zamindars in Bengal."

"Mussumat Sham Mohini of Dinajpore—This lady (locally called Maharani) owns large estates (with a rental of £40,000) in the distressed portions of Dinajpore district. She refrained from collecting rents during the year of scarcity. She bought and distributed to the tenants about £5,000 worth of rice and seed grain, caused tanks to be dug on her estate, gave land free of charge to her villagers for their tanks, maintained a relief house where from first to last, about 90,000 persons received relief, and made herself responsible for the repayment of all advances of grain made by Government to her raiyats."

"Babu Bissessur Melay, on behalf of his mother-in-law Darumba Debya, of Searsole in Burdwan district showed distinguished liberality. He executed relief works for the convenience of his villages at a cost of

about £10,000, distributed charitable relief daily at a poor house near his home, and was personally active in directing the due administration of his own charities and of the Government relief operations."

"Baboo Ram Ranjun Chuckerburtty of Beerbhoom, owns estates which were visited by distress. He from the first set a good example to the neighbourhood, expended £1,400 on relief works, remitted £3,100 (or one-tenth of his yearly rents), maintained for four months a relief house where 250 persons were fed daily, subscribed largely to relief funds, and personally as well as through his efficient manager Mr. Reed superintended the dispensation of his charities."

"Babu Joy Kissen Mukherjee and Raj Kissen Banerjee hold large estates in a part of Hooghly which was much distressed. They undertook a considerable number of relief works, helped their raiyats, and remitted or suspended rents. They both personally busied themselves in directing relief operations. The Commissioner writes that, 'In the Hooghly district Babu Joy Kissen Mukherjee was, as usual, the first and foremost in his exertions for the good of the people and in support of the officers of Government'."

"Raja Jatindra Mohan Tagore owns large estates in the Midnapore district. Although the distress there, which at first threatened to be severe, became afterwards reduced to smaller proportions, he granted to his raiyats remissions of rent to the amount of £4,000, distributed seed grain and money, and gave some land for relief works, opened a dispensary at his own cost and contributed towards medical relief generally. He set an excellent example in these respects at the very commencement of the distress, when the effect of such an example in the country was likely to be particularly good."

"Raja Pramatha Nath Roy of Dighapathia, owns extensive estates in Bogra and Rajshahi districts. He was conspicuous above all other zamindars of Bogra for his liberality. He extended considerable relief works at his own cost, maintained four relief houses, at which about 1,400 people were fed daily, advanced money and seed grain largely to his raiyats, and abstained from pressing them for rent. He set an excellent example to the landholders of Rajshahi, Pabna and Bogra district."

"Babu Radha Gobinda Roy Saheb, of Dinajpore, maintained a private poor house, where gratuitous relief was given, abstained from realising his rents, aided Government relief officers, whenever, and in whatever way he was asked. The Commissioner reports that this gentleman did his duty as zamindar in a quiet, but thoroughly satisfactory manner. Babu Shetab Chand Lahiri, resident of Murshidabad, but zamindar in Dinajpore, deputed a special agent to superintend

relief measures in his estates, executed several relief works for his raiyats, maintained expense throughout, and abstained from pressing for rent."

"Babu Shama Sunker Roy of Teota, usually resides in another district, but on hearing of the distress, went to live on his estate, in Dinajpore. He imported grain for his people, opened relief works, maintained two relief houses throughout the famine, made large advances to his raiyats for food, materially assisted the relief officers of Government. Babu Ramoni Mohon Roy Choudhury of Rungpore has previously been known to be a man of liberality. During 1874, he maintained a relief house on his estates, imported grain, and sold it at cheap rates to his raiyats, whose rents he abstained from collecting."

"Khwaja Ahsanoolah of Dacca, son of Khwaja Abdul Ghunee, C.S.I., well-known for his active liberality upon this as well as other occasions, though residing in a district in which scarcity was happily not general, contributed liberally to the relief of the distressed poor in the city of Dacca, and rendered valuable assistance to the transport operations in the Rajshahi Division, by placing his private steamer at the disposal of Government."

"The zamindars mentioned below carried on relief works or maintained relief houses at their own expense, or imported grain for the help of the raiyats or advanced money and grain to their raiyats or actively and diligently managed the administration of Government relief:—

Dinajpore.

Radha Gobinda Roy Sahib, Narayan Chander Choudhuri of Chooramuni; Boodheenath Choudhuri of Malddoar; Proteema Soondaree Choudhuranee of Jagadal; Pearee Mohan Choudhuri of Jagadal; Babu Shama Nath Roy of Muhadepore; Shama Soondaree Debee of Lalgola; Jankee Geer Goswami of Roygunj; Babu Sisandoyal Roy of Haldebaree; Babu Kureem Baksh Sirkar; Koilasheshree Debee; Babu Modhu Soodun Banerjee, Mussamat Greeja Kumaree Debee; Bajra Mandal, Raiyat, Dinajpore; Babu Muntahar Roy, Agent of Luchmeeput Rai Bahadur, Dinajpore; Tareenee Prasad Chowdhuree of Thakoorgaon, Dinajpore; Trustees of the estate of the late Prosonno Coomar Tagore; Ram Mahamed, Ijaradar.

Bogra.

Babu Ooma Churan Chowdhury of Jamalpore; Babu Koonja Beharee Roy of Dumduma; Mohima Ranjan Choudhury of Kakina; Haneef Talookdar of Mahobala; Babu Eda Paramanik of Badladighee; Ram Chunder Geer Gossame of Sherpore, Radha Rumman Munshee of Sherpore.

Maldaha.

Babu Vojoho Mohan Roy of Harishchundrapore.

Rungpore.

Babu Dukhina Mohan Chowdhuri of Tepa; Babu Nobin Chandra Roy Choudhuri of Bamandanga; Babu Mohima Runjun Roy of Kakina; Babu Kinoo Singh Roy; Babu Ananda Prosad Roy of Sanibarya; Babu Shib Chandra Lahiree of Bowchandee; Babu Janakee Bullub Sen of Dimaha.

Rajshahi.

Babu Shekhareswar Roy of Tehirpore; Babu Gopalendra Narayan Roy of Pooteah; Roy Grish Chunder Lahiree Bahadur; Babu Kishoree Nath Chowdhuree; Ranee Shiveswaree of Natore; Raja Chundra Nath Bahadur of Natore; Moulvi Mahomed Rasheed Khan Choudhury; Babu Taranath Chowdhuree; Babu Raj Kumar Sirkar; Babu Sarada Prosad Sookul; Babu Kristo Lal Moitra, Agent to Babu Debendra Nath Tagore; Babu Mohinee Mohan Roy; Babu Haranath Chowdhuree; Babu Kristendra Roy; Baul Mendal.

Pabna.

Babu Jadunath Mookerjee, Agent of the Tagore Estate; Mussamut Rai Lukhee Debya of Sagoona, near Tares; Babu Bunwaree Lall Roy; Sedut Ali Khan of Kutunga; Mussamut Broja Soondaree Chowdhranee; Dilawar Ali Moonshee.

Murshidabad.

Babu Annada Pershad Roy of Cossimbazar; Roy Jogendra Narayan Roy of Lalgola; Moonshee Zelloo Rahaman of Talipore.

Bankura.

Babu Damoodur Singh, Zamindar.

24-Parganas.

Kumar Komul Krishna Bahadur; Kumar Narendra Krishna; Mr. Cowasjee Eduljee of the Port Canning Company; Babu Degumber Mitter; Babu Mohesh Chandra Chowdhuree.

Nadia.

Babu Bamandas Mookherjee of Debagram; Babu Jugal Chandra Mookherjee of Muragatcha; Mollah Khudadad Khan of Bamunpokree."

Mr. Robinson, Relief Commissioner of Dinajpore during the famine of 1874, wrote:—

"It is impossible to quit the subject of the conduct of the zamindars without reference to the subject of Government revenue; and in a pecuniary point of view, I suspect strongly that the zamindars of all classes have probably been the heaviest sufferers by the failure of last year's crops. Very many of them have of themselves suspended all rent collections till better times come for their raiyats; and others, who would have collected, have been unable to do so, partly from the sheer inability of the people to pay, and partly I think, from the fear of consequence, if complaints were heard of their pressing harshly on their raiyats. But be this as it may, there can be no doubt that far the greater part of those who have paid their Government revenue during the past year have had to borrow the money to do so, and this alone must have been no slight strain on the resources of some of them."

Q. 4. It is absolutely incorrect to say that the Permanent Settlement converted the status of "zamindars" from collectors of revenue to actual proprietors of the soil. They were the actual proprietors of the soil, long long before the advent of the British in India and the Permanent Settlement was made in recognition of their pre-existing rights.

In page 370 of the Minute of Sir John Shore, dated 18th June 1789, regarding Permanent Settlement of lands in Bengal, Sir John Shore definitely gave his opinion as follows:—

"I consider the zamindars as the proprietors of the soil, to the property of which they succeed by right of inheritance according to the law of their own religion and that the sovereign authority cannot justly exercise the power depriving them of succession, nor of altering it, when there are any legal heirs. The privilege of disposing of the land, by sale or mortgage, is derived from this fundamental right and was exercised by the zamindars before we acquired the Dewani."

In page 314, et seq, in Harrington's Analysis, Vol. III, in the series of questions put by Sir John Shore to Gholam Hossain Khan, the author of Siyar-ool-Mutakherin, it would appear that he demolished all the objections that were raised against the proprietary rights of the zamindars. In page 317, to the question whether there were instances in which a zamindar succeeded by inheritance without the confirmation of the ruling power, Gholam Hossain Khan stated: "That this has always been the case with the zamindars of Bijapore, Tirhoot, Bettiah, Sirca Saraum, etc." Gholam Hossain further stated that if the Emperor wanted lands, they had to purchase it from the zamindar and he gave some instances.

It is mentioned in the Fifth Report of the Select Committee that "The zamindars of Bengal were opulent and numerous in the reign of Akbar and existed when Jafar Khan was appointed to the administration. Under him and his successors their respective territorial jurisdiction appeared to have been greatly augmented, and when the English acquired the Dewani, the principal zamindars exhibited the appearance of opulence and dignity".

Mr. J. Sullivan, in his observation upon the Sirkar of Musulipatam printed in the year 1780, observes that "At his demise in 1707, the whole country was possessed by the ancestors of the present zamindars".

Mirza Mohsin, an experienced Muhammadan Officer during the early English regime, bears his testimony to the hereditary tenure of zamindars.

The zamindari office in the Moghul period was permanent and hereditary. Ascoli in his "Early Revenue History of Bengal" says:—

"I have examined a sanad of the year 1728 A.D., in which the right of the dispossessed zamindar to receive an allowance from his estate is distinctly recognised."

The Amini Report, submitted by Messrs. D. Anderson, Charles Groftes and George Bogle, three British Officers of the company, to Warren Hastings, Governor-General at Fort William, on the 25th March 1778, says that zamindars held lands subject to the payment of revenue during the reign from Akbar to Jafar Khan and gives proof of the existence of zamindari system during pre-British period. R. B. Ramsbotham, in "Studies in the Land Revenue History of Bengal" said: "The Amini Report was the first technical and professional explanation of the system embodied in collecting the land revenue of Bengal that was placed before the Commission."

Mr. Shore advocating a settlement with the zamindars said: "Revenue belongs to the King, soil belongs to the landlord."

On the 16th July 1777, General Clavering and Mr. Francis, members of the Board of the Governor-General, opined: "We are of opinion that the lands should be restored to the zamindars, whose unalienable property they are, upon a reasonable jama."

Mr. Francis asserted in 1776 that "The land is the hereditary property of the zamindar."

Mr. Shore said that "The principal zamindars received *titles* and jagirs according to their rank; while those of an inferior degree, in the event of their being obedient to the orders of Government, attentive to the improvement of lands and punctual in the payment of their

revenues, received nankar proportionate to their exigencies; besides which they had no other allowance. The nankar was reduced from the revenue payable to Government. Afterwards, on the decline of the Empire, villages were granted for nankar in lieu of money."

The Court of Directors for the affairs of the East India Company, in its despatch, dated the 21st August 1788, declared that the zamindars had a hereditary tenure in their possessions, that many of them could trace back their rights to days coeval with the conquest of Akbar and that the idea of this right had been repeatedly sanctioned in discussions in Parliament, in the decisions of Courts, and in the practice of Government.

Q. 5. The annulment of the Permanent Settlement would be a breach of a solemn pledge given by the East India Company to the zamindars.

"It is as much a contract as the promissory note of the Secretary of State for India. It is also a contract for the benefit of which the majority of the present landholders of Bengal have admittedly paid full value. Nor was it originally a contract without valuable consideration."

Originally, the revenue represented 10/11ths of the rent-roll. Irrespective of realisation, the zamindars paid the said revenues on many occasions from their hoarded wealth. They spent a good deal in reclamation of waste land. Majority of the present landholders purchased zamindaris at a revenue sale and at a private sale at an enormous expense and spent a good deal for its administration.

It is a solemn Royal Warrant of an absolute sovereign confirming or modifying or, taking the worst view of it from the zamindar's standpoint, conferring property for consideration, pecuniary, political and economical, and past, present and future and as such cannot be altered or modified without due compensation being made, as when land is acquired for public purposes.

The Permanent Settlement was made after the resolution of the House of Commons of 1784. Adhering thereto, the Court of Directors in their despatch, dated the 12th April 1786, to the Government of Bengal, stated that "we have entered into an examination of our extensive records on the subject of the Revenue of Bengal from a wish to adopt some permanent system compatible with the nature of our Government, the actual situation of the Company and the case of the inhabitants." The pledge was given by the East India Company who were trustees for the sovereign authority and the Parliament (*vide* Queen's Proclamation, dated 1858).

"Whereas, for diverse weighty reasons, we have resolved, by and with the advice and consent of the Lords, spiritual and temporal, and Commons, in Parliament assembled, to take upon ourselves the Government of the territories in India heretofore administered in trust for us by the Honourable East India Company, "and, as such, is constitutionally binding upon the sovereign authority and the Parliament, and is irrevocable."

In the Great Rent case, Thakooranee Dasi *vs.* Bisheswar Mukherjee, W. R. Act X Ruling, His Lordship the Chief Justice, Sir Barnes Peacock, was pleased to observe at pages 117-118 "on the contrary, I should consider that I was holding that the Legislature, in passing Act of 1859, had violated the engagement which the Government made with the zamindars at the time of the Permanent Settlement and had exercised a power which Government stated no longer existed, when in Regulation II of 1793, they declared in the most emphatic language that 'No power would then exist in this country by which the rights vested in the landholders by the Regulations could be infringed or the value of the landed property affected.....'."

The learned Chief Justice Sir Richard Garth, commenting on the Rent Bill which subsequently became the Bengal Tenancy Act, 1885, remarked "If it is necessary as a matter of public policy to deprive the landlords of their rights, let us at least be honest about it and say so. But don't let us attempt to thrust such blind pretence down the throats of an intelligent people."

The tenants were not parties to the said pledge. It was a matter concerning the sovereign authority and the landholders. The tenants had no rights existent and the Permanent Settlement has not done away with any such rights.

Further, the Bengal Legislative Assembly has derived its powers to legislate from the British Crown and the British Parliament under the Government of India Act, 1935, and, accordingly, the said pledge is constitutionally binding upon the Bengal Legislative Assembly and the Government of Bengal.

Q. 6. The large increase in the area brought under cultivation since the Permanent Settlement is mainly due to the initiative and the pecuniary and other assistance of the zamindars.

This increase of agriculture has given the tenant ease and prosperity, which again has prepared favourable grounds for propagation of species and has thrown out impetus to the tenants to cultivate more lands.

The initiative and the pecuniary and other assistance of the zamindars is the cause, and the increase of culturable lands, the increase

in population and the enterprise of tenants are effects of one and the same cause, and the expectation, mentioned in question, has been thus amply fulfilled.

Q. 7. The increase is to be ascribed to the industry and good management of zamindars. According to Colebrooke, two-thirds of land were jungles. The landlords have reclaimed those waste lands by organisation of capital and labour.

On the 20th of October, 1883, the Commissioner of the Burdwan division reported to the Government of Bengal as follows:—"The Bengal of to-day offers a startling contrast to the Bengal of 1793: the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement..... a great portion of the increase is due to the zamindari body as a whole, and they have been very active and powerful factors in the development of this prosperity."

No reclamation was possible or effected simply by the efforts of tenants without the initiative and capital of zamindars. The Regulation of 1793 give sufficient forecast of the fact that for such reclamation investment of capital is a necessity. The evidence of Mr. Pattle, a former member of the Board of Revenue, gives a correct picture of the situation then prevalent thus:—"The country brought under the Decennial Settlement was, for the most part, wholly uncultivated. Indeed, such was the state of the country from the prevalence of jungle infested by wild beasts that to go with any tolerable degree of safety from Calcutta to any of the adjacent districts, a traveller was obliged to have at each stage four drums and as many torches."

After the great famine of 1769-70, there was dearth of peasants. The zamindars required tenants on terms which were lower than customary rates. During this time, a class of raiyats known as vagrant raiyats grew up. They took settlement from one zamindar for one season at a lower rate; if the zamindar tried to enhance rent, they migrated to another place and settled with another zamindar at a lower rate than what was customary. At that time the tenants took advantage of the dearth of peasantry, and the zamindars, by sacrificing a good deal and by organisation of capital and labour, reclaimed vast tracts of waste lands and jungles.

The increase is also not due to enhancement of rents. This point has been dealt with in answer to question 11.

Q. 8. By the Permanent Settlement, the "zamindars were required and expected to conduct themselves with moderation towards their tenants". This expectation has been fulfilled in actual practice.

The zamindars have to make punctual payment of revenue and cesses, kist by kist, and, in default of one kist, their estates are sold. But, in each estate, the tenants' rents in almost each jama are in arrears for more than three years. After four years, if the tenants pay one year's rent, they are not sued for, but even if sued for, the tenants are allowed almost three years' time again to pay the decretal dues amicably, and after that time, the jotes are put up to sale, and if the tenants want to save their jotes, time is allowed even then and, in some cases, for their inability to pay in cash, they are allowed to give bonds and handnotes in lieu of the decretal dues. Even if the jotes are khas purchased, if the previous tenants want, the jotes are re-settled with them after remission of the major part of the previous dues. This is the general happening in all the zamindaris in Bengal.

The tenants get pecuniary and other help from the zamindars at the time of calamities. The zamindars grant annuities to helpless tenants, and his kar lands to tenants for religious purposes. The zamindars assist the tenants in cultivation by supply of liquid money, etc.

The above is partially borne out by the official reports mentioned in answer to question 3.

The expression "To secure to them the same equity and generous treatment as they were supposed to have received from Government" is an ingenious one, and can nowhere be found in the Regulation itself or the Minutes of Lord Cornwallis. It can never be the object of the Permanent Settlement.

Q. 9. The zamindars have improved their estates by reclamation of two-thirds of waste lands and jungles, and by extension of cultivation in various ways as stated in answer to question 3.

The zamindars have excavated big tanks and sunk tube wells in the mahals. They have constructed roads and village paths. In order that the agricultural produce of the mahals may be sold at fair market prices, they have set up hats, golas, ganzes in different places and have erected permanent buildings and structures there. The zamindars have constructed pucca buildings in each tahsil circle and have thereby enhanced the market value of the lands.

The zamindars have established schools, colleges, and dispensaries, and constructed big buildings and structures for the purposes. The zamindars have in many places set up masjids and temples. They have aided the agriculturists in the cultivation of lands, helped them with money and food grains at the time of scarcity and facilitated the public works by grant of lands to district and local boards free of compensation and rent free.

The above is borne out by the official reports mentioned in answer to question 3.

There is no specific provision in the Permanent Settlement Regulation calling upon the zamindars to extend cultivation. The Regulation merely contains an appeal to their good sense in that direction, with a solemn pledge of allowing unhampered absolute enjoyment of the fruits of their own good management and industry.

The zamindars have not failed in their duties.

Q. 10. The Permanent Settlement was in the interest of the country economically and for the greatest good of the largest number. It has led to a revenue system which is to the benefit of the province.

The tenants are benefited in various ways by the Permanent Settlement. If the administration of the province be dependent on the immediate realisation of rents from tenants, nothing short of a procedure applicable to a revenue sale will be necessary for the State to collect rent necessary to discharge the administrative costs of the province. Many tenants may be incapable to pay their dues punctually and the same will have a disintegrating effect on the agricultural and economic structure of the province.

The Permanent Settlement has brought about the ease and prosperity of the province. The population has largely increased. This has increased the agricultural resources of the country by reclamation of vast tracts of jungles and waste lands—has improved the exports from nothing to the vast sum of £30,000,000 sterling a year, and the gross value of the harvests from £32,000,000, to not less than eight times that amount, viz., £250,000,000.

Referring to the Permanent Settlement, the famous Fifth Report of the Select Committee of the House of Commons presented in 1812 states—"The country exhibited in every part of it improvement on a general view, advancing with accelerated progress in later times."

The Simon Commission in 1929 observed—"Whatever may be said for the wisdom of the policy carried out by Lord Cornwallis, and however absolutely the guarantee then given to the zamindars and their heirs must be fulfilled, the consequences at this time of the day are remarkable."

On the 20th October 1883, only two years before the passing of the Bengal Tenancy Act of 1885, the Commissioner of the Burdwan Division reported to the Government of Bengal as follows:—

"The Bengal of to-day offers a startling contrast to the Bengal of 1793: the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement.....a greater portion of this increase is due to the zamindari body as a whole and they have been very active and powerful factors in the development of this prosperity."

That the effect of the Permanent Settlement is remarkable and extensive can be gathered from the following fact:—

From the provincial Banking Enquiry Committee Report (1930), the average income of an agricultural family may be calculated to be Rs. 450 as against his expenditure of Rs. 420, leaving a surplus income of Rs. 30 a year and the average value of an acre of agricultural land in the province to be Rs. 300. The unearned increment from land, viz., on account of rise in the prices of staple food crops entirely goes to the raiyats. The purchasing power of the Bengal middle classes and agriculturists is higher. In Bengal, there are six millions of cultivating families and fifty-seven millions of landholders and forty-six thousand people in the services of zamindari estates, and they all derive substantial benefits from the land system on the basis of the Permanent Settlement.

Sir Peter Grant, the then Lieutenant-Governor of Bengal, in his memorandum, dated the 10th August 1861, sent to the Government of India, referring to the augmentation of public revenues of Bengal in consequence of the Permanent Settlement as compared with those of other provinces, said—"The Settlement as a whole was a heavy assessment at the time and its wonderful financial success is beyond all question."

Mr. Marshman, the famous historian, in page 35 of his History, dated 1871, Vol. 11, wrote thus:—

"The Permanent Settlement of Bengal was a bold, brave and wise measure. Under the genial influence of this territorial charter which, for the first time stabilised indefeasible rights and interests in the soil, population has increased, cultivation has been extended, and the gradual improvement has become visible in the habits and comforts of the people."

The late historian R. C. Dutt, I.C.S., the then member of Board of Revenue, wrote:—

"The settlement is an unqualified boon to the country. Cultivation has largely extended within the last hundred years, the income from lands has largely increased, and the increase has remained with the people, and for the good of the people."

Mr. P. N. Roberts, in his History of British India, wrote:—

"The Permanent Settlement gave popularity and stability to the British Government and has helped to make the province the wealthiest and most flourishing in India."

His Excellency Sir John Anderson, at St. Andrew's Day Dinner on November 30, 1932, gave out his considered opinion on the Permanent Settlement thus:—

"It is, I believe, often said that Bengal would be alright, if it were not for the Permanent Settlment. Such a comment does not seem to

me to be particularly relevant but let us examine the point. The Settlement (of 1793) was not the outcome of the grasping and short-sighted policy of a parochially minded provincial Government but was deliberately imposed by the highest authority in India. Incidentally, it was the same authority who announced that it was fixed forever. No doubt the provincial Government would have been able, had there been no Permanent Settlement, to derive a larger revenue from the land; but in that case it would have been impossible under conditions prevailing to-day to collect the full amount of the tax on jute."

Mr. Pattle, a former member of the Board of Revenue, says:—

"Lord Cornwallis's great and comprehensive mind saw that the only resource within his reach in this critical emergency was to establish public credit and redeem the extensive jungles of the country..... For my part, I am convinced that our continuance in the country depends on the adoption of that measure, and that our stability could not otherwise have been maintained unaltered."

Mr. R. C. Dutt, the former member of the Board of Revenue, writes:—

"All through the fifteen years, from 1795 to 1810, Bengal had showed a surplus (because of the certainty of land revenue) while Madras and Bombay had showed deficits. It is not an exaggeration to state that Bengal, with its Permanent Settlement, yielding a steady and unvarying income from the soil, enabled the British nation to build up their Indian empire. Bengal paid the expenses of ambitious war and annexations in northern and southern India. Madras and Bombay never paid the total cost of their own administration during these years; Great Britain never contributed anything towards the acquisition of India."

Colebrooke declared in 1808 that "The reviving prosperity of the country (Bengal), its increased wealth and rapid improvements, are unquestionably due to the Permanent Settlement."

In 1826, Bishop Heber, wrote that "In Bengal where independent of its exuberant fertility there is a Permanent Settlement, famine is unknown."

In 1837 and 1860, the people of northern India were visited by two great famines. Colonel Baird Smith who was appointed to enquire into the causes of famines in 1860 recommended a Permanent Settlement of land revenue as a protective measure against the evil effects of famine, and stated in his report of 1861 thus—"No misapprehension can be greater than to suppose that the settlement of the public demand on the land is only lightly, or as some say, not at all connected with the occurrence of famines. It lies in reality far nearer to the root of

the matter because of its intimate and vital relation to the every day life of the people and to their growth towards prosperity or towards degradation than any such accessories as canal or roads or the like, important though these questionably are.....Given the drought and its consequences, the capacity of the people to resist their destructive influence is in direct proportion, I would almost say geometrical proportions, to the perfection of the settlement system under which they are living and growing."

In 1862, Cecil Beadon, the Lieutenant-Governor of Bengal, advocated Permanent Settlment for the other portions not permanently settled.

In the beginning of the nineteenth century the Marquess of Wellesley, Lord Minto, the Marquess of Hastings, all realised the beneficial effects of the Permanent Settlement.

Samuel Lang, Finance Member to the Government of Lord Canning, spoke of the Permanent Settlement thus:—

"We do not exist as a Government merely to get the largest revenue we can out of the country, or even to keep the mass of the people in a state of uniform dead level, though it should be a tolerably happy and contented one, as a peasant tenantry under a paternal Government. If we give a Permanent Settlement we lay the foundation for a state of society, not perhaps so easily managed, but far more varied and richer in elements of civilisation and progress. We shall have gradations of society, from the native noblemen of large territorial possessions down, through the country gentlemen of landed estates to the independent yeoman, the small peasant proprietor, the large tenant with skill and capital on a long lease, the small tenant on a lease, the tenant-at-will, and the day-labourer."

Sir Charles Wood, in his despatch dated the 9th July 1862, stated:—

"The Permanent Settlement is a measure dictated by sound policy, and calculated to accelerate the development of the resources of India, and to ensure, in the highest degree the welfare and contentment of all classes of Her Majesty's subjects in that country."

Sir Charles Wood described Permanent Settlement as cause of the general progress of the country in wealth and prosperity.

The Permanent Settlement has not led to a system which has resulted in the advantage of the landlords at the expense of the tenants.

(1) Because of the Permanent Settlement, the tenants enjoy lands at a rate lesser than that prevalent in other provinces or countries where there is no Permanent Settlement. Further, before the Permanent Settlement, the rates of rent prevalent in the province were much higher.

(2) According to the Hindu system, the King's share, as mentioned by Manu, is to be one-eighth or one-twelfth. Sir George Campbell asserted that the King took from one-tenth to one-eighth of the gross-produce. Mr. Shore said one-sixth, and others said something less than one-fourth of gross-produce. Sir Thomas Munro puts it as two-fifths.

In Emperor Akbar's time, Government were entitled to one-fifth of the value of produce. Before British rule, Sir George Campbell says, the State took from one-fourth to half the gross-produce, one-third and two-fifths being the most common proportions. The Fifth Report puts the State proportion at three-fifths. Mr. Shore gives two different opinions, his earlier opinion is that Government took one-third, but his subsequent opinion puts Government share at from one-half to three-fifths. Mr. Elphinstone says that one-third is a moderate assessment and the full share is one-half. Mr. Grant reports that the proportion taken was one-fourth, and this he considered reasonable and moderate.

From the following tables, referred to by the Hon'ble Revenue Member, in his speech in the February Session, 1933, of the Bengal Legislative Council, viz.:—

District.	Average gross produce per acre.	Average rate of rent of occupancy raiyat per acre.	Approximate percentage of rent on value of produce.
	Rs.	Rs. a. p.	Per cent.
Bankura ..	47	1 12 0	4
Midnapore ..	48	3 2 0	6
Jessore ..	57	2 7 0 about	5
Khulna ..	60	3 6 0	5
Faridpur ..	50	2 9 0	5
Bakarganj ..	70	4 9 0	6
Dacca ..	60	2 13 0 about	5
Mymensingh ..	60	2 12 0	5
Rajshahi ..	55	3 5 0	6
Tippera ..	60	3 2 0	5
Noakhali ..	75	4 4 0	6

we get the average rate of rent of occupancy raiyats throughout the province at Rs. 3-2-4 and the average value of produce at little over Rs. 60 per acre.

From the United Provinces Banking Enquiry Committee's Report (1929-30), we get the following information :—

Division.		Rent per acre.	Value of outturn per acre.
		Rs.	Rs.
Meerut ..	Statutory ..	13½	75
	Occupancy ..	6	..
Jhansi ..	Statutory ..	5	27
	Occupancy ..	2½	..
Gorakhpur ..	Statutory ..	5	78
	Occupancy ..	4½	..
Lucknow ..	Statutory ..	7	63
	Occupancy ..	..	..

We find therefore that rent in the United Provinces is higher than that in Bengal.

In Bihar, the average rent per acre is Rs. 4.

From Dr. Venn's "The Foundations of Agricultural Economics", page 75, we get the capital value per acre at £31 and rent per acre at 31*s.* in England.

Further, from Survey and Settlement Reports, we get the following table which will show that the majority of the raiyats in Bengal are occupancy raiyats.

District.	All raiyats (thousand acres).	Occupancy raiyats (thousand acres).	Non-occupancy raiyats (thousand acres).	Under-raiyats (thousand acres).
Bakerganj ..	1,389	1,346	42	81
Faridpur ..	1,297	921	55	133
Dacca ..	1,441	1,349	37	19
Tippera ..	1,178	1,103	35	68
Mymensingh ..	3,015	2,864	115	124
Jessore ..	1,577	1,370	6	493

Thus, on the basis of the Hindu system 16·25 per cent. should be the rental, and on the basis adopted in Emperor Akbar's time 20 per cent. should be the rental. The existing rent which is only 5 or 6 per cent. is an extremely moderate rate of rent, as compared with that in other provinces or countries or in Bengal before Permanent Settlement.

Further, from the Revenue Department, we get the following statistics as referred to in the aforesaid speech:—

Statement of rental and produce.

	Rupees in crores approximately.
Total rental of occupancy raiyats	8
(1) Total value of rice in normal time (Rs. 1,81,89,27,805 in 1928-29)	182
(2) Total value of jute in normal time (1928)	40
(3) Total value of other crops will be considerably above 20 crores, but for present purposes it may be taken to be as low as 20 crores ..	20
Total ..	250

(1) The total value of agricultural produce in normal times is thus taken to be at least 250 crores.

The total rental of occupancy raiyats being about 8 crores the percentage of rent to the total value of agricultural produce is about 3·2, taking the province as a whole.

Thus, by the Permanent Settlement, the tenants are not put in a disadvantageous position than before.

(2) The landlords shall have to pay revenue to Government kist by kist (every three months), and in default of one kist, their properties are sold, and the rigid frame of sunset law operates harshly on the zamindars, and has been the cause of ruin of many ancient zamindaris of Bengal. The famous Fifth Report of the Select Committee of the House of Commons presented in 1812 acknowledged that the great transfer of landed property by public sale and dispossession of the zamindars was due "To the unavoidable consequences of defects in the public Regulations combined with inequalities in the assessment, and with difficulties, obstructions and delays with which many nice distinctions and complex provisions of the new code of regulation, were brought into existence."

On the contrary, the tenants get undue advantages in this direction because of the complex and dilatory provisions of civil laws through which the landlords shall have to pass in the realisation of rents from them. Generally, the landlords do not institute rent suits except as a last resort to save limitation so if the tenants pay one year's rent out of four years' arrears outstanding, their properties are saved.

(3) In Muhammadan times, the zamindar's settlement with the raiyats was annual and the zamindar used to add the subsequent abwabs to the assul or original and distribute the enhanced rate "according to the quantity of land held by the raiyats, or the estimated or actual crop," and enhancement could be pushed on more smoothly. After the Permanent Settlement, the exaction of abwabs in excess of rent was put an end to, and enhancement of rents, because of the costly and cumbrous buttresses of civil laws, turned out more academic than practical, and was not practically availed of by the zamindars and the unearned increment from land goes entirely to the raiyats.

(4) If the tenants are dispossessed in part by landlords, they are entitled to suspension of entire rent. They are not liable to ejectment. They now enjoy the full proprietory rights without sharing the responsibility for revenue with the zamindars.

(5) It has been shown in answers to questions 11 and 13 that the zamindars get very little for their private appropriation, and the margin of profits they have, goes back to the State exchequer in the shape of cesses, stamp duty, income-tax, union rate, etc., and as compared with their profits, their responsibility is immense. It has also been shown there that the net income alleged to have been intercepted by landlords of Bengal is Rs. 10,57,79,239, and the total number of landholding units in Bengal is 57 lakhs, and, by calculation, the average income of each landholding unit comes therefore nearly to Rs. 19 a year.

As compared therewith, the average annual income of an agricultural family amounts to Rs. 450 a year (*vide* the Provincial Banking Enquiry Committee Report, 1929-30).

Further, the fact is that most of the landlords are heavily indebted.

The economic insolvency of the landlords can be guaged also from the fact that in times of depression the number of defaults in land revenue increases and the sale law operates very harshly in many cases. According to the report on the Administration of Bengal (1930-31), defaults and sales numbered 16,122 and 1,422 respectively as against 14,205 and 1,342, respectively in the year 1929-30.

(6) At the time of scarcity, the landlords pay their revenues to the provincial exchequer, although they do not collect rent from tenants. On the contrary, the tenants get rice, grain, money and other reliefs from the zamindars, and in some cases even remissions of rent. The above fact is substantiated by the official reports mentioned in answer to question 3.

(7) While other provinces are affected by famine because of the absence of Permanent Settlement, Bengal since the Permanent Settlement is not so affected.

Thus, the Permanent Settlement has not led to a system resulting in the advantage of the landlords at the expense of the tenants, but on the contrary, it has led to a revenue system which is to the benefit of the province.

That the tenants are prosperous and happy under the Permanent Settlement is borne out by the following official reports.

"There is", remarks the Commissioner of the Presidency division, "a general consensus of opinion that the condition of the agricultural classes who form the majority of the population has so much improved within the present generation that the trading classes have shared in the progress and the labouring classes are also better off than their ancestors." (*Calcutta Gazette*, August 13, 1879.)

"The Magistrates of 24-Parganas, Nuddea and Jessore concur in testifying to a general improvement in the material conditions of the lower classes." (*Calcutta Gazette*, September 19, 1877.)

"The agricultural classes of this division (viz., Rajshahi division) are now extremely prosperous." (*Calcutta Gazette*, September 25, 1878.)

"There is unanimous testimony to the prosperity of the people (of Burdwan division), as a result of good harvests, high prices, and a liberal demand for labour." (*Calcutta Gazette*, September 24, 1879.)

"The material condition of the people (of Chittagong division) is reported to be generally prosperous" (*Calcutta Gazette*).

"There can be no doubt that the material condition of the agricultural portion of the population (of Dacca division) is one of great and increasing prosperity as a consequence of rapidly advancing independence (*Calcutta Gazette*, September 26, 1877.)

Sir Ashley Eden's speech at Dacca, 1877, quoted elsewhere, also testifies to the general prosperity of the tenants under the Permanent Settlement.

Q. 11. There is absolutely no justification for such criticisms and such prejudices thrive best on ignorance.

(1) As regards the criticism on ground 1.

This has been dealt with in detail in answer to question 13. It has been shown there that the word "Appropriation" is a misnomer. The margin goes back to the central and provincial exchequer in some shape or other, and the nett income per head, is very insignificant.

(2) As regards the criticism on ground 2.

The Permanent Settlement had not led to subinfeudation of tenancy. Tenure system was in vogue on small scale long long before the Permanent Settlement and several Regulations of 1793, quinquennial papers, taidad registers kept in the collectorate give evidence in support of the same.

But the Bengal Tenancy Act has led to subinfeudation of tenancy on an extensive scale. At the time of Permanent Settlement there were two kinds of raiyats, viz.:—

(*i*) Khudkasht (resident hereditary cultivators) that is those who actually cultivated the soil by sweat of their brow and live in the village.

(*ii*) Paikasht (non-resident cultivators) that is those who did not live in the village and cultivated by means of labour.

With a view to encouragement and extension of cultivation the zamindars used to give greater rights and privileges to khudkasht raiyats over paikasht. But the Tenancy Act has given right of occupancy to all raiyats irrespective of the fact whether they cultivate or not, and has created large sections of occupancy raiyats who are really rent-receivers and enjoy similar rights and privileges as the zamindars but do not share the responsibility. They are termed tenureholders if they hold 100 bighas or more lands. The transferability of occupancy rights is giving further facilities for such subinfeudation. The tenancy legislations do not aim at the extension and improvement of agriculture, but at the creation of new rights of tenants and extinction of existing rights of zamindars. Thus the tenancy legislations and not the Permanent Settlement are responsible for subinfeudation of tenancy.

(3) Criticism on ground 3.

This is equally untenable. From page 27 of the Bengal Provincial Banking Enquiry Committee report, we find the following statistics showing the average profits of cultivation.

Name of crop.	Average cost of crop production.	Normal yield per acre.		Harvest price per md. in 1928-29.	Value of produce per acre.	Profits.
	Rs.	lbs.	Mds.	Rs. a.	Rs. a.	Rs.
Rice (cleaned) ..	47	1,022	12·4	6 10	82 2	37
Other food crops (wheat).	33	721	9	6 0	54 0	21
Jute ..	92	1,331	16·2	9 0	145 12	54
Oil seeds (rape and mustard).	33	483	5·8	8 12	50 12	18
Cane and sugar (gur)	276	3,054	37·2	8 9	318 8	42
Tobacco ..	168	1,007	12·2	20 0	244 0	76

From the Survey and Settlement Reports we find the following statistics:—

District.	Rent per acre. Rs. a. p.
Dacca	2 13 0
Mymensingh	2 12 0
Tippera	3 2 2
Bakarganj	4 8 10
Faridpur	2 9 2
Noakhali	4 4 5
Rajshahi	3 3 0
Jessore	2 7 5
Midnapore	3 15 5
Bankura	1 12 7

The average for the ten districts comes to Rs. 3-2-4.

From the Revenue Member, we get the following statistics:—

District.	Average gross produce per acre.	Average rate of rent of occupancy raiyat per acre.	Approximate percentage of rent on value of produce.
	Rs.	Rs. a. p.	Per cent.
Bankura ..	47	1 12	4
Midnapore ..	48	3 2	6
Jessore ..	57	2 7 about	5
Khulna ..	60	3 6	5
Faridpur ..	50	2 9	5
Bakarganj ..	70	4 9	6
Dacca ..	60	2 13 about	5
Mymensingh ..	60	2 12	5
Rajshahi ..	55	3 5	6
Tippera ..	60	3 2	5
Noakhali ..	75	4 4	6

We thus get the average rent of occupancy raiyats throughout the province at Rs. 3-2-4 pies and the average value of produce at little over Rs. 60 per acre.

As discussed before, according to the Hindu system, Government was entitled to one-sixth of the value of the produce, and in Emperor Akbar's time to 1/5th. On the basis of the Hindu system 16·25 per cent. should be the rental, and on the basis adopted in Emperor Akbar's time, 20 per cent. should be the rental. Therefore, the existing rent which is only 5 or 6 per cent. is an extremely moderate rate of rent.

From the Revenue Member, we also find the *following statement*:—

Statement of rental and produce.

	Rupees in crores approximately.
Total rental of occupancy raiyats	8
(1) Total value of rice in normal time (Rs. 1,81,89,27,805 in 1928-29)	182
(2) Total value of jute in normal time (1928)	40
(3) Total value of other crops will be considerably above 20 crores but for present purposes it may be taken to be as low as 20 crores	20
Total ..	250

The total value of agricultural produce in normal times is thus at least 250 crores and is likely to be considerably more.

The total rental of occupancy raiyats being about 8 crores, the percentage of rent to the total value of agricultural produce is about 3·2, taking the province as a whole.

Further, it has been shown in answer to question 10, that the majority of raiyats in Bengal are occupancy raiyats, and that the rate of rent prevalent in Bengal is much less than that prevalent in other provinces or in England and Wales.

From the above, the inference is irresistible that the Permanent Settlement has not led to enhancement of raiyati rents, but, on the contrary, because of the Permanent Settlement, the raiyats are enjoying rates much lower than those prevalent in the province during the Hindu and Muhammadan reign, that is, before the Permanent Settlement.

During the Hindu and Muhammadan period, a definite share of produce was the rent. During the period of Company management,

competition played an important part in influencing rent in Bengal. After the great famine of 1769-70, there was dearth of peasants. The Government compelled the zamindars to court the peasants to undertake the cultivation of waste lands. "The resident cultivators had only to migrate a few miles to get land at low rates of rent." The cultivators gave terms which were lower than customary rate, and the zamindars had to accept those terms. During this time, a class of raiyats known as vagrant raiyats grew up; they hold lands at lower rate. They took settlement from one zamindar for one season at a lower rate; if the zamindar tried to enhance rent, they migrated to another place and settled with another zamindar at a lower rate than what was customary. Those vagrant tenants reduced the customary rent and the law of supply and demand worked with vengeance on the zamindars, and rent instead of going up to the level of economic rent settled down to the customary rate. This state of things continued up to 1859 when the reign of law began. Rent was settled by the legislature on customary rate and the chances of enhancement were gradually reduced to nil.

From Permanent Settlement upto 1885, the fact that rents were not generally enhanced can be also gathered from consideration of the following facts:—

From Colebrooke's Husbandry of Bengal, page 17, we find (1) that one-third only was under tillage at the time of the Permanent Settlement, and two-thirds were waste lands and jungles. (2) That the gross rental of raiyats was roughly 4 crores. (3) From the Settlement reports, we find that the raiyati assets are estimated at 12 crores. From the above, the following statistics are available:—

	1793.	1884.
Rental:—	4 Crores.	12 Crores.

If one-third of lands under tillage gives 4 crores reclamation of another two-thirds of waste lands will give another 8 crores.

From 1885 to the District Settlement, it will be seen that rents are not enhanced, but have rather fallen down.

At page 443 of Vol. II of the report of the Rent Law Commission, we find Mr. J. O'Kinsaly, one of the members, writing that the gross rental in 1877, according to the Board of Revenue, was Rs. 13,03,78,945. According to settlement reports, we find the gross rental is only 12 crores. So, there is reduction of rents to the extent of more than one crore.

After 1885, the question of enhancement of rents has become more or less academic. Because of the costly and cumbrous court procedure, such enhancements were not generally available. Sir P. C. Mitter, in his evidence, before the Taxation Enquiry Committee was asked:— "Do you mean to say that the landlord is prevented from making even

the two annas in the rupee enhancement?" To that he replied as follows:—"Not exactly prevented by physical force. Taking a holding paying a rent of Rs. 20 a year. An increase of 2 annas in the rupee means Rs. 2-8. The capitalised value of that is about Rs. 40; and if the landlord wants to get that increase through the law courts, he will have to spend about Rs. 1,000 and the raiyat has to spend about Rs. 300 in defending the action and no man out of Bedlam will do it. If there were a simpler process, perhaps certain executive officers being on the spot, decided the question, if the landlord got his proper share in the money that he spent and the raiyat also got a larger share as his profits, then perhaps there would be some incentive. But now if he wants to have an increase, he has to file a suit in the Munsiff's court, the matter will be heard after 3 years; he will have to bring his witness from any distance; the matter will again perhaps be taken up in appeal; they generally go even to the High Court, and before the litigation is complete, he will have to spend a lot of money.

(4) As regards criticism on ground 4.

The Permanent Settlement has not created any system of overlordship. There is no such overlordship. If it is thought that there is any overlordship over the raiyats as alleged, it has been in existence from long before the Permanent Settlement, from time immemorial, without any harassment or oppression to the raiyats.

Q. 12. No, the abolition of the Permanent Settlement is not advocated.

Q. 13. None of those methods is advocated.

We do not agree with the view that the continuance of the Permanent Settlement involves a loss to the State to the extent of about 75 per cent. of the raiyati assets for the following reasons:—

(1) From Appendix of the Land Revenue Administration Report of the year 1930-31, we find the gross rental of Bengal in road cess return to be Rs. 15,98,71,387 out of which collection charges may be modestly taken at 10 per cent. After deducting the said collection charges and land revenue payable to Government and the cesses, the figure comes to this:—

	Rs.
Gross rental	15,98,71,387
Less collection charges at 10 per cent. ..	1,59,87,138
	14,38,84,249
Less Land Revenue	3,01,76,036
	11,37,08,213
Less Cess	89,28,974
	10,47,79,239

Thus, the nett income alleged to have been intercepted by landlords of Bengal is Rs. 10,47,79,239.

From the said figure, on consideration of the following circumstances, further deductions are due:—

(*a*) There is the village union rate which exceeds Rs. 42½ lakhs, payable by landlords in common with the others.

(*b*) Losses incurred in arrears and litigation for recovery of cesses.

(*c*) About 15 per cent. are not realisable in cash. They are bad and irrecoverable and are annual recurring losses. This is evident from the Annual Administration Reports of Board of Revenue in respect of estates under the management of Court of Wards. From the said administration report of Board of Revenue for the year 1932-33, it will be seen that only 85·8 per cent. on the current demand has been realised. These losses are inevitably caused every year by abandonment, surrender, khas purchase in suits, diluvion, etc.

Thus, about 20 per cent. of the gross rental should be deducted from the aforesaid figure of net income every year. The figure then stands thus:—

Net income	10,47,79,239
Less 20 per cent. as aforesaid	3,19,74,277
	7,28,04,962

Major portion of the aforesaid nett income goes to the State coffers in one shape or another. In Bengal out of the provincial revenues of 10 crores, land revenue and stamp duty yield more than 7 crores.

The stamp duty, which was Rs. 355 lakhs in 1928-29 and is the main source of income of the Provincial Government, yields such a figure because of the Permanent Settlement Regulations.

The judicial statistics, as calculated by the Hon'ble Sir P. C. Mitter, would show that out of the total number of civil suits, nearly 60 per cent. are rent suits and 90 per cent. of money suits are for "kisti bandi" of arrear rents. The whole amount of land revenue is contributed by landlords and the majority of receipts under stamps are also paid by them, and the figure under the said head at the modest calculation may come up to 3 crores.

Because of the Permanent Settlement Regulations Bengal gives higher contributions in the shape of income-tax and customs receipts

towards the Government of India. The present land tenure system has given rise to a middle class of people in the province who are primarily responsible for such larger contributions to the central exchequer under the aforesaid two heads. The taxes on income collected in Bengal in 1928-29 is more than 6 crores. An analysis of income-tax assessments made in 1920 at the instance of the Meston Committee showed that over 90 per cent. of the income-tax collected in the provinces comes solely from Bengal, of which 9 per cent. only from business in several provinces with head offices in Calcutta or other places in Bengal. Nearly 24 crores are collected as customs from the ports within the territorial jurisdiction of Bengal and the consumption of Bengal is greater than that of other provinces. The above will be evident from the following statistics of the year 1928-29:—

	Income-tax. Lakhs of rupees.	Customs. Lakhs of rupees.
Bengal	615	1,850
Madras	131	469
Bombay	317	1,921
United Provinces	90	..

Bengal and Madras have almost similar strength in population. Bombay is a manufacturing province and not an agricultural one. In the year 1925-26, Bengal contributed more than 26 crores to the Central Government under various heads, such as income-tax, customs, salt, excise and opium, whereas Madras contributed 6 crores, and United Provinces a little more than 1 crore only. Any interference with the present land tenure system shall revolutionise the economic fabric of society, shall deteriorate the purchasing capacity of middle class, and shall cause consequent deficits under the aforesaid two heads.

Thus, it will be evident from the above that the fancied loss of the State is amply compensated by the contributions of the province under other heads. Abolition of the Permanent Settlement may increase the land revenue but would affect stamp, income-tax and customs receipts, etc. To quote from the speech of His Excellency Sir John Anderson, at St. Andrews' Day Dinner on the 30th November 1932— "No doubt the Provincial Government would have been able, had there been no Permanent Settlement, to derive larger revenue from the land; but in that case it would have been impossible under conditions prevailing to-day to collect the full amount of the tax on jute."

Further, land revenue has gained certainly. In times of depression, when other provincial Governments have to take recourse to

exemption and remission of rents, the Bengal Government could count on their demands under land revenue. From the Land Revenue Administration Report of the Presidency of Bengal for the year 1930-31, it is seen that Government as landlords collected only 56·10 per cent. of the current demand in khas mahal estates, but 90 per cent. from the zamindars in the permanently settled estates.

Further, Government gets land revenue free from cesses and with nominal collection charges because of the Permanent Settlement. In khas mahal estates in Bengal, and in temporarily-settled estates, the collection charges are inordinately high. To quote from the evidence of Sir P. C. Mitter before the Taxation Enquiry Committee—"We have 46,000 square miles of cultivated area and on this we have a land revenue, roughly, of 3 crores of rupees. Take for instance, Madras. The area there is 123,541 square miles and the land revenue is 5 crores and 13 lakhs. Bengal is paying 3 crores on 46,000 square miles, it is not under-assessed. You spend in Madras a large amount, perhaps a crore and a half, on collection owing to the raiyatwari system".

That there is no loss to the State is also evident from the following fact. There are 113 estates under the management of the Court of Wards. From the administration report of Board of Revenue for the year 1932-33, it is seen that collections were made at the rate of 85 per cent. on the current demand, but not withstanding, the Government were able only to realise at the rate of 70·5 per cent. and 29·5 fell in arrears and due.

From the above, it will be seen that there is no loss to the State, and the State shall not gain anything from the total abolition of the zamindari system or from cancellation of the Permanent Settlement and substitution of the system of temporary settlement in its place.

Assuming that Rs. 10,57,79,239 is the net income intercepted by landlords of Bengal, the average income of each landholding unit in Bengal will be very small and insignificant.

From the Land Revenue Administration Report of Bengal for the year 1930-31, we find the following figures:—

Total number of revenue-paying estates	106,208
Total number of revenue-free estates	30,859
Total number of rent-free tenures	33,807
Total number of rent-paying tenures	5,613,723
	5,784,597

Thus, the total number of landholding units in Bengal is 57 lakhs and odd. The average income of each handholding unit comes to

Rs. 19 only a year. In each unit, there are large number of co-sharers, and the income of each co-sharer will be very small and insignificant.

Further, the gross rental realisable from occupancy raiyats is shown to be Rs. 8 crores approximately by the Revenue Member, and the balance of raiyati assets according to settlement reports are realisable by raiyats from under-raiyats. Out of the said 8 crores, some portions are realisable by tenureholders. So, only 8 crores are realisable by State on the abolition of zamindaris and tenures. If from the said 8 crores, deductions under the above heads, such as, revenue, cesses, union rates, stamps, etc., payable to Government are made, the question of loss become entirely imaginary, and unfounded.

R. Money, Junior member of the Board of Revenue of the North-Western Provinces, in a Minute, dated 1861, wrote—

"No amount of direct and indirect land revenue could bear any proportion to the increased sources of revenue which will directly or indirectly be gradually developed by the Permanent Settlement."

Colonel Baird Smith, referring to the fancied loss as alleged opined:—

"There would be no real sacrifice but, on the contrary, a marked increase of the public resources from the creation of the increased private property to which it is conceived that a Permanent Settlement of the public demand must lead."

Mr. G. F. Edmonstone, the Lieutenant Governor of the North-Western Provinces, in a Minute, dated the 27th of May 1862, recommended the Permanent Settlement thus:—

"Judging by the effect of settlements for long periods it may be safely anticipated that the limitation of the Government demand in perpetuity will, in much larger degree, lead to the investment of capital in the land. The wealth of the agricultural classes will be increased. The prospective loss which the Government will incur by relinquishing its share of the profits, arising from extended cultivation and improved productiveness will be partly, if not wholly, compensated by the indirect returns which would be derived from the increased wealth and prosperity of the country at large."

Raja Rammohon Roy, in the early part of the nineteenth century, said "The amount of assessment fixed on the lands of these provinces (Bengal, Bihar and Orissa) at the time of the Permanent Settlement was as high as had ever been assessed and in many instances higher than had ever before been realised by the exertions of any Government, Muhammadans or British. Therefore the Government sacrificed

nothing in concluding that settlement. If it had not been formed the landholders would always have taken care to prevent the revenue from increasing by not bringing waste lands into cultivation, and by collusive arrangements to elude further demands, while the state of the cultivators would not have been at all better than it is now."

The temporary settlement has been made permanent after considerable adverse experience for long long years and re-substitution of the system shall revolutionise the fabric of the society, deteriorate the purchasing power of the people and cause consequent loss of Government revenues under heads, stamp, income-tax, custom duty, cesses, union rates, and shall seriously tell upon the agricultural resources of the province. The evil effect of this arrangement can be better imagined from a simple reading of a passage from Regulation II of 1793—"When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate and moneyed men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious....."

The same causes, therefore, which prevented the improvement of land depreciated its value.

From the above, it will further be seen that the imposition of tax on agricultural income will be wholly unjust and unsound.

From the net income of Rs. 7,28,04,962 after deductions under various heads, the State gets about 3 crores as stamp duty. Major portions of expenditure in litigation are not realisable from tenants because of khas purchases and at the times of depression, these losses cannot be recouped from re-settlements. So, entire litigation costs and cesses not recovered from tenants eat up considerable amounts of the net income. If the total number of landlords in Bengal be taken at 678 thousand, the average income per head becomes insignificant. Under the Bengal (Rural) Primary Education Act of 1930, imposition of education cess at the rate of five pice on each rupee of the annual value of land has been made and landlords have been made responsible to the Government for the whole amount of education cess. Already, without imposition of education cess and income-tax on agricultural income, the condition of landholders of Bengal is anything but satisfactory. The total debt of landlords is estimated at Rs. 40,68 crores *(vide* the July 1934*)* issue of *Sankhya*, the Indian Journal of Statistics. Further the imposition of such tax shall be in definite violation of the solemn pledge in Regulation I of 1793, and shall be a confiscatory move on the part of Government.

Article VI of Regulation I of 1793 runs thus:—

".....No demand will ever be made upon them or their heirs or successors by the present or any future Government for an augmentation of the public assessment in consequence of the improvement of their respective estates."

Lord Cornwallis, on the 6th March 1793, wrote to the Court of Directors—

"We think this a proper opportunity to observe, that if at any future period, the public exigencies should require an addition to your resources, you must look for this addition in the increase of the general wealth and commerce of the country, and not in the augmentation of the tax upon the land....."

With reference to a Bill in 1854 regarding appointment and maintenance of police-chaukidars, the Hon'ble Mr. Peacock, then Law Member of the Governor-General's Council, in a Minute, dated the 6th March 1854, held that the levy of a local rate on the permanently settled estates would involve a breach of the Permanent Settlement and this view found agreement from other members of the said Council and from the then Governor-General, the Marquiss of Dalhousie.

In Emperor *vs.* Probhat Chandar Barua (I. L. R. 51 Cal. 504), Justice Rankin observed—

".....The true intendment of the Permanent Settlement is trenched upon by the imposition of further taxes in respect of any part of a settled estate upon any tenureholder, tenant or other person under the zamindar just as much as by taxes levied directly on the zamindar."

In Maharajdhiraj of Darbhanga *vs.* Commissioner of Income-tax (I. L. R. 3, Pat. 470), the learned Chief Justice Dawson Miller held—

"It is argued that the effect of the imposition of income-tax is not to increase the revenue or rent so payable, but it is clear, I think, that the imposition of such a tax is in fact to increase the revenue under another name. The jama permanently fixed at the date of the Settlement was calculated upon a percentage of the rents and profits at that time derived from the ownership of the land. Income-tax is based upon the same profits as they now exist, and it is impossible in my opinion to escape from the conclusion that a tax, under whatever name, upon the same sources of income, would increase the duty payable under the name of revenue and which, by the Permanent Settlement, it was agreed, should then be fixed for ever."

In King-Emperor *vs.* Probhat Chandra Barua (Full Bench Case), their Lordships Justices Mukherjee and Suhrawardy held—

"Although it is clear that the right to taxation generally was not given up by the Permanent Settlement, it is equally clear from the

correspondence between Lord Cornwallis and the Directors of the East India Company, specially from Regulation XXVII of 1793, section 4, that income or profits from permanently settled estates were not among the items, the right to tax which was reserved. Whether a contribution is levied as revenue or as income-tax, both are demands of the State and when in assessing the revenue, a guarantee was given of its fixity, and a declaration was made that the balance would never be touched, to impose a further tax on the income or the profit is to take away that fixity and alter what was guaranteed to be unalterable. The argument that only the revenue payable by the lands was fixed and not the entire demand of the State on all income or profits cannot prevail, in as much profits from fisheries were taken into account.

The object of the Permanent Settlement Regulation was to ensure the improvement of agriculture and thereby the wealth of the country, by guaranteeing to the landlord exclusive enjoyment of the profits after deduction of a fixed revenue, and the exemption of agricultural income by the Income-Tax Act is perhaps a continuation of the same policy."

Q. 14. Grounds (I) and (II) and abolition on the basis thereof are not advocated, but if notwithstanding, the Permanent Settlement is abolished, compensation should be paid in cash.

The landholders of 1793 engaged to discharge regularly the revenue in all seasons, without reference to drought, innundation or other calamity of the season, and the revenue represented ten-elevenths of the rent roll originally. They thus paid revenues for a long time at a loss. Further, majority of the present landlords are purchasers of zamindaris at a revenue or a private sale for valuable consideration. The Permanent Settlement is thus an agreement for valuable consideration. Further the zamindars have spent a good deal for the settlement operations and for purchase of records, D. Registers, valuation-rolls, sale certificate. And large amounts as arrears of rent and cesses, etc., at an average calculation, for about three years are due and outstanding and the same shall not be realisable if zamindaris are purchased by the State.

Considering the above, fair, equitable and adequate compensation which should not in any case, be less than 30 years' purchase over the gross profit—the rate which is payable to Government in rent-redemption cases should be allowed. In addition, 75 per cent. of the total arrear demands should be given for the aforesaid arrears of rent and cesses due by tenants.

Q. 15. The zamindars were given solemn pledges that they would exclusively enjoy the fruits of their own industry and good management. If those pledges can be run rough shod, bonds which are

nothing but pledges can be equally done so. In the case of such compulsory sale such compensation should be paid in cash.

If compensation be not paid in cash, redeemable bonds having face value equivalent to the amount of cash compensation bearing $\frac{1}{4}$ per cent. per mensem interest till redemption, free from all taxes with quarterly payment of interest, ought to be given.

Q. 16. The effect of State purchase of zamindaris will be the disruption of the social structure of Bengal.

The direct effect will be that large sections of people of the society in Bengal whose occupation of life was the zamindari from long before the advent of British in India will be out of employment and hopeless. From Land Revenue Administration Report of Bengal for the year 1930-31, we find:—

Total number of revenue paying estates ..	..	106,208
Total number of revenue free estates ..	..	30,859
Total	..	137,067

On a modest calculation, we may take that every estate carries at least 3 co-sharers. Thus 411,201 persons with their families will be out of employ.

Secondly, 46 thousands of people in Bengal who were in the services of the zamindars as agents, clerks and rent collectors will be out of employment. Already unemployment problem has been very acute in Bengal, and shall grow more acute and unbearable thereby.

The zamindars pay to the State large amounts on account of stamps and court fees, etc., every year. On the abolition of the zamindari system in Bengal at least three-fourths of stamp duties shall fall down. Large number of civil land revenue courts in Bengal shall be abolished. Innumerable people who are connected with civil and revenue courts, such as amlas, peons, pleaders and their clerks, etc., will also be out of employment.

The zamindars collect two pice cess per rupee from the tenants and pay another two pice cess per rupee from their profits. Besides, in almost 50 per cent. of rent suits filed in each estate, the jotes are khas purchased and the entire rents and cesses for about eight years are lost to the zamindars of every estate, but the zamindars make up the deficiency out of their profits, and make punctual payment of cesses with revenue. By State purchase of zamindaris at least three-fourths of the district board income shall fall down, and public work will suffer in consequence. A large number of people including poorer

tenants who get employment in public works shall also be out of employment.

In every year the State gets from the zamindars and tenants large amounts on account of registration fees in respect of kabuliyats and pattas, etc., and certified copies of old documents, etc., including records-of-right. The said revenue shall fall down, and large number of people who are connected with the said transactions shall also be out of employment.

In every year, Government get large amounts on account of income-tax from the zamindars and income under the said heads shall also fall down.

In every year, Government get large amounts from the zamindars, on account of fees and estates partition cost of account of khatians, D. Registers, etc., and the income under the aforesaid heads shall also fall down.

Cultivation and agriculture shall suffer immensely. In many places, the zamindars lend active help and co-operation in cultivation, such as by supply of seeds, implements of husbandry, liquid money for costs of cultivation, etc., by irrigation of agricultural fields, by erection of bunds preventing saline and flood waters running into culturable lands, by supply of waters for irrigation from khas tanks of the zamindars. Besides, some tracts of lands in Bengal are dense jungles and the process of reclamation at the cost of the zamindars is gradually going on. The chance of extension of such cultivation shall be lost for ever.

Sanitation shall suffer immensely. In many places, the zamindars have set up charitable dispensaries and grant medicine free of costs to the tenantry. In many places, the zamindars make recurring grants to the dispensaries for their upkeep. In many places, the zamindars have excavated tanks and sunk tube wells in their khas lands for the supply of drinking water to the tenantry and pay for their preservation and upkeep. In many places during malaria and cholera seasons, the zamindars distribute quinines and cholera inoculations and other medicines free of cost to the tenantry. In many places, the zamindars have constructed roads, bridges, reservoirs, etc., and pay for their repair works. All these things shall be totally stopped.

Education shall suffer to an irreparable extent. From Calcutta University down to a village pathsala, all Universities, colleges, and schools—general, medical, science, engineering, agriculture, etc.—are all more or less fed by lump and recurring contributions and donations from the zamindars. Innumerable students of Bengal are entirely dependent on the zamindar's monthly donations. All these will be totally stopped.

Trade and commerce shall suffer to a large extent. The zamindars are consumers of the major-portion of costly articles and merchandise and on the extinction of rich sections of people, trade and commerce shall receive a serious set-back.

From time immemorial, in all social, religious and public works of the province, the zamindars have taken active interest, and based on their donation and charities all public, social and religious institutions and customs have grown up. The zamindars have all along helped the public and the State in diverse functions. The zamindars have helped the State at times of necessity. Large portions of costs in observance of public functions at the time of Delhi Darbar, Coronation, Silver Jubilee, etc., have been borne by the zamindars. During Great War, the zamindars lent active help in State defence. The State purchase of the zamindaris shall deprive the province of these advantages forever.

Many orphans, widows, fakirs, prophets, priests, moulvis, temples, masjids, etc., are fed by monthly donation from the zamindars. In many places the zamindars help people at the time of their daughters' marriage, at the time of their relatives' sradh or illness, etc., and their existence is entirely dependent on the existence of the zamindars and by State purchase of zamindaris, they will be quite helpless.

The State shall sustain a substantial loss therefrom. Provincial Government gets 3 crores as revenue, about a crore as cesses, a large portion out of 42½ lakhs as union rate, and about 4 crores as stamp duty from the zamindars. Central Government gets about 6 crores as income-tax and about 26 crores as customs receipts. The present land tenure system has given rise to a middle class of people in Bengal who are primarily responsible for such larger contributions to the central exchequer under the aforesaid two heads—income-tax and customs receipts. The net income of Rs. 10,47,79,230 which is alleged to have been intercepted by landlords is intercepted by 57 lakhs and odd number of landholding units in Bengal, as per the following statistics of the Land Revenue Administration Report of Bengal for the year 1930-31.

Total number of revenue paying estates	..	106,208
Total number of revenue free estates	..	30,859
Total number of rent free tenures	..	33,807
Total number of rent paying tenures	..	2,613,723
		5,784,597

Any interference with the present land tenure system shall revolutionise the economic fabric of society, shall deteriorate the purchasing capacity of middle class, and shall cause consequent deficiency in the income-tax and customs receipts of central Government.

Further, only 8 crores, according to Revenue Member as stated elsewhere, is the gross rental realisable by zamindars and tenureholders, and the balance are realisable by raiyats from under-raiyats. If tenures and raiyati holdings are not purchased, and the State only steps into the shoes of zamindars, the balance of profits after deduction of profits intercepted by tenureholders and raiyats shall be insignificant, and, after deduction of huge establishment costs, and the amounts of deficiency caused by failure of stamp, union rate, cess and other duties, shall fall much lower than the revenues now realisable from zamindars free of cesses.

Further, a large amount of the alleged profit shall be consumed in arrears. The Land Revenue Administration Report of Bengal for the year 1930-31, shows that Government realised 90 per cent. on the current demand from zamindars in the permanently settled estates, but realised 56·10 per cent. as landlords in khas mahal estates. The provincial Government bereft of such sure and certain income shall be entangled in the administration.

The State is more a machinery than a living organism. The zamindars are more a living organism than a machinery. The substitution of the State machinery will remove once for all the human control. A poor and illiterate tenant of Bengal can very well approach the zamindars, Rajas and Maharajas direct and can get relief at once, but he cannot get such relief from the State all at once, because of the constitutional limitations on the powers and rights of the local State officers. During Hindu and Moslem rule, the tenants of Bengal were accustomed to such darbars and because of the presence of the zamindars, no difficulty in this direction was felt so long. By State purchase of zamindaris, these difficulties shall be keenly felt by the dumb millions of Bengal.

The tenants do not pay rents to the zamindars regularly and punctually, and keep rent in arrears for several years, and get leniency of treatment from the zamindars. The zamindars pay Government revenue and cesses, although the identical amounts are not realised from tenants. But when the State shall be dependent on the realisation of rents from tenants direct through the State machineries, such lenient treatment shall not be available to the tenants in general, and there shall be acute chance of loss of properties to many.

Already no-rent campaigns and mass agitations are in full swing in Bengal and platform is resounding with slogans of communism. Realisation of rents are matters most unpalatable to the tenants now, and if the State comes in direct touch with the tenants in general of Bengal for the said unfavourable work, the State will have to bear the brunt of popular opprobrium which now so conveniently rests upon the

shoulder of the zamindars and unpopularity, disaffection and discontent may follow leading to a general unrest.

It is for about a century and a half that the Settlement stood. In the meantime zamindaris have been divided, re-assembled, bought and sold in a thousand and one ways. Land values have been different at different periods and occasions have been many and various when zamindaris have fetched high and low values in the market. In the course of those transactions many new zamindaris have come into the field and many old zamindars have purchased new zamindaris, and the process of amortisation has taken off all the benefits of increased land values, i.e., in the case of all zamindaris that have changed hands. A revision of the Permanent Settlement will inflict serious injustice on many, besides bringing unforeseen troubles and extreme disorder.

Thus, to sum up, the financial resources of the State, will not be enhanced by purchase of zamindaris. There shall be huge loss of revenues under different heads, as stated above, and the revenues of 3 crores which the State now gets free from cesses, shall be subjected to payment of cesses, and the establishment costs shall swell sixteen times more, and the anticipated augmentation of public revenues shall hardly meet the deficiency caused by loss of revenues under different heads as narrated above and the increase of establishment costs and shall be affected by constant pressure of demands for remissions and suspensions. About two-fifths of the population of Bengal shall be affected by such a measure, and acute unemployment crisis, disruption and unrest, and disruption of the social and economic structure of the province shall follow as a consequence, and the State shall run into debts for a bad bargain.

Messrs. Orwin and Peer in "The Tenure of Agricultural Land" says:—

"Let it be stated over again that no advantage on balance is claimed for this system of land purchase (by the State) when contrasted with the system of private ownership which has prevailed so long: it is only put forward to provide an orderly way out of the difficulties which the break-down of the old system is creating."

Q. 17. If the avowed object of the Government and the legislature be not to bring the actual cultivators of the soil under its direct control, there is no sense in purchasing the zamindaris and if the zamindaris are to be purchased for the above object, the purchase of the tenures also shall be a necessary corollary of the same.

Further, if the zamindaris are purchased and tenures are not purchased, there is clear risk of loss of the existing revenue of the State, because the outgoing proprietors might have created innumerable

tenures at low rents. In many circumstances it is seen that tenures are being enjoyed at a lesser rate than that at which the revenue has been assessed.

Q. 18. If the zamindaris and tenures are purchased, at least sixteen times the administrative costs will be enhanced, and Government revenue under the different heads and district board and union board income shall fall down and, three crores of rupees of revenue, free from cesses, shall be subjected to payment of cesses.

Q. 19. We do not think that the raiyats would prefer to come under Government and pay rent to it direct.

The khas mahal raiyats do not get any advantage over tenants under the proprietors of permanently settled and temporarily settled estates.

The legislature has withdrawn certificate powers from private estates, but has kept intact certificate powers in khas mahal estates. The legislature has made the Bengal Debtors' Act, 1935 (Act VII of 1936), applicable to rents of private estates, but has excluded rents of khas mahal estates in the denomination of public demands from the operation of the said Act. The khas mahal estate rents are subjected to temporary revision for 15 years, and enhancement of rents in every fifteen years is said to be the rule.

A tenant of a private estate may save his jote by non-payment for several years, but a tenant of a khas mahal estate is said to be bereft of such leniency.

Q. 20. The Permanent Settlement has not encouraged subinfeudation.

Before the Permanent Settlement, tenure system was in vogue on a moderate scale. The Permanent Settlement Regulation and other contemporaneously passed in the year 1793, and also other Regulations passed almost on or about the same time, give trace of the pre-existence of such tenures. The tenancy legislations from 1859 onwards are affording facilities for such subinfeudation. The Bengal Tenancy Act, 1885, recognise raiyats having 100 bighas or more lands as tenureholders. Many occupancy raiyats of Bengal enjoy lands by receiving rents from under-raiyats and sublet lands at exceptionally high rates, and thereby affect the actual tillers of the soil prejudicially.

Neither the Permanent Settlement nor the zamindars are responsible for such extensive subinfeudation. The tenancy legislations, by way of transferring entire proprietary rights from the zamindars to the so-called raiyats, are responsible for this extensive subinfeudation.

Q. 21. At present the total number of tenures in Bengal is estimated at 56 lakhs (*vide* Report of the Land Revenue Administration, Bengal, 1930-31).

In the Final Report of the Survey and Settlement operation of Jessore, the total number of patnis, darpatnis, maurushi and other jotes, etc., is estimated at about 122,000.

It is also well known that these holders of the tenures form the middle class population in the province. While some of them are entirely dependent upon the income of their respective tenure, others are not so dependent and follow other occupations such as trade and industries.

*If compensation adequate for securing them the same income they are at present getting from their tenures be given to them while the State purchases their tenures, the economic position of either will hardly be altered. On the contrary, both the classes will get some benefit, while their income will remain unaltered, thus latter would get more time and opportunity of devoting their time and resources for following industrial occupations.

Q. 22. In case the State purchases zamindaris and tenures, the holders of homestead and khas lands within such zamindari or tenure, should be allowed to hold their respective homestead and khas lands under the Government on the same terms and conditions as to fixity of tenure and rents as exist to-day, unless they be permitted to hold them henceforth rent free forever.

Any alteration of land tenure in respect of these lands will be highly injurious to owners of buildings, dwelling houses, tanks, etc., now standing thereon as the Government is not expected to pay the value of the latter while purchasing the zamindari or tenure within which they are situated.

By the term khas lands of zamindars or tenureholders we intend to mean only those lands which are in the actual occupation of the zamindar or tenureholder and where they might have erected their own dwelling houses or factories or other industrial concerns or established *hats*, bazars, etc., excavated tanks, etc., and are themselves actually carrying on such industrial concerns, etc.

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*It is anticipated that by this process, the industries in this province will get a move and in that case as a consequence of State purchase of tenures in Bengal there will come about a development of industrial activities as is the case now in Bombay.

Unquestionably the change will improve the economic conditions of the middle class population in Bengal. It is very likely that Bengal will soon become an industrial country. So there will be a marked change in the character of the social structure in Bengal. At present the society is mainly dependent upon agricultural income. But in the altered circumstances, they will be dependant upon trade and industries.

Q. 23. The occupancy right of raiyats is a creation of British legislation, and found space for the first time in the Rent Act of 1859.

Right similar to such statutory right did not exist from an earlier period. Accordingly in 14 C. W. N. 372, it has been held that a right of occupancy cannot be acquired by local usage. In the year 1859, the word "Occupancy" first appeared in the statute book. Earlier Regulations do not contain such word.

According to Colebrooke, the tenant right in any form was unknown in the province and the utmost confusion prevailed everywhere as to the terms on which the raiyat held his lands. (Pp. 39, 46, 47, Colebrooke's Husbandry of Bengal.)

Q. 24. That is not a correct view. The zamindars were and are the actual proprietors of the soil.

The raiyats simply possessed the land, not transferable or heritable, to quote the words of His Lordship the Chief Justice Sir Barnes Peacock at page 117-118 in W. R. Act X, Ruling, as an agricultural day labourer without capital or property.

According to Colebrooke, the tenant right in any form was unknown in the province and the utmost confusion prevailed everywhere as to the terms on which the raiyat held his lands (Pp. 39, 46, 47 of the previous reference).

That the zamindar it was who fixed the rental, and that he did it annually, with due regard to seasons. (P. 44, 52.)

Q. 25. The right of occupancy, as introduced by British legislation for the first time in this country, has brought about a crisis in the agricultural prospect of the province. It has led to extensive commercialisation of cultivating rights in lands and fragmentation of interests and creation of uneconomic holdings and consequent loss of real enthusiasm in extension of cultivation. Vast tracts of lands have passed from the agriculturists, and deterioration in agriculture is in prospect. The actual cultivating raiyats of the soil, that is, korfa tenants, may be given some such legal protection and not intermediaries. Further, such legislation has tampered with the legitimate rights of the zamindars under the Permanent Settlement.

Q. 26. Only actual cultivating raiyats of the soil, i.e., korfa tenants in respect of lands under his direct tillage should be afforded some such legal protection. No such protection should be extended to raiyats in respect of lands not under their direct tillage and which they cultivate through other raiyats.

Q. 27. No.

Q. 28. A cultivator requires statutory protection as he is otherwise helpless. But a person, who is not a cultivator, is generally not in such a helpless condition. Moreover by altering the use of the land, he would be getting much larger profits than what a cultivator could have derived from following agricultural pursuits. It is not fair that he should be getting such income and the superior landlord none out of it. So it seems that when the use of the land is changed and the new-comer uses it for non-agricultural purpose, the statutory protection should not extend to him.

As to the State laying any additional taxes, we think, that under the existing laws, it can get and is actually getting a share of the additional income as may be derived from this altered circumstance, by way of income-tax in addition to chaukidari tax, union rates, etc.

For these reasons, we do not approve of the State laying any additional tax upon land merely when its use is changed from agricultural into non-agricultural purpose.

Q. 29. Yes, it is slightly on the increase, and increase in population and want of culturable lands are the main cause.

Further, the bargadars get higher amount for labour in barga cultivation than labour in any other form.

Want of other industries and unemployment crisis are also to some extent responsible for such increase.

Q. 30. It is highly unreasonable and unwise to give the bargadars, who are nothing but labourers paid in kind, any statutory right.

None of these appears to be the cause.

Q. 32. No. Law is not the only means for protection and goodwill and co-operation of neighbours play a great part in human society, and they do not require any legal protection.

Q. 33. We think it is economically sound and is most paying.

Q. 34. If occupancy and similar statutory rights are given to bargadars to-day, they will naturally sublet such rights to-morrow and this will encourage further subinfeudation.

Any legislation for giving occupancy rights to bargadars will therefore have bad effect on the society and on the bargadars themselves. Moreover in such contingencies the zamindars and others will try to keep all khas lands in their direct possession.

Q. 35. Half the produce is a fair proportion, and no legislation shall be wise.

Q. 36. The wages of the agricultural labourers are generally three to four annas from morning to noon time.

The bargadars get Re. 1-4 from morning to noon instead.

Q. 37. This Association is of opinion that there is no reason to apprehend that as a result of the Bengal Tenancy Amendment Acts of 1929 or of 1938 considerable areas of raiyati lands have passed into the hands of non-agriculturists.

This Association does not support the suggestion for any statutory restriction prohibiting sales of occupancy holdings to non-agriculturists. It would lower the value of the agricultural holdings and would diminish the credit of the occupancy raiyats which has already been seriously affected in various ways. Moreover such restriction is not practical.

Q. 38. In our experience of the method of cultivation now adopted in this province, an economic holding should comprise 10 bighas, as it is just sufficient for a single plough with a pair of bullocks to work with. But this area will vary according to the nature of crop grown on this land. In the case of paddy this area may generally be taken at 10 bighas, but it will not be the same in the case of other crops such as sugarcane, tobacco or jute.

But if scientific cultivation, as now employed in foreign countries, is introduced here the minimum area of an agricultural holding ought to be 40 bighas although outside India this area may be different.

Q. 39. Yes.

Q. 40. Unless the laws of inheritance are changed it is not possible, and such change is not desirable or practicable in the present state of society.

Formation of co-operative society for consolidation of plots of land and cultivation thereof through the said societies or formation of limited company for the said purpose will not be practicable or beneficial in populous areas.

Q. 41. Special facilities by way of fair and adequate market value for the land should be given.

Further, Government can dispense with the costs for stamp and registration fees.

Q. 42. This Association admits that the larger the area of a compact agricultural holding, the more economical will the same be to the agriculturists and agriculture will prosper. With this end in view, this Association supports accumulation of agricultural lands in

a compact form in individual possession. Moreover, unless accumulation be allowed, capital would not be attracted to agriculture and its development will be hampered.

In the next place, when a big capitalist becomes an agriculturist, he will be in a position to sustain calamities and carry on, bad years notwithstanding.

For intensive cultivation it is essential that the agricultural holding should be as large as possible. So this Association has got nothing to say against accumulation of agricultural holding in the hand of individuals. For these reasons, the Association does not support the idea of putting any limit to such accumulation. Suggestion for preventing accumulation of land in one particular hand is therefore unnecessary.

Q. 43. It is detrimental, but this cannot be minimised without interfering with the laws of inheritance.

Q. 44. To stop the evil of fragmentation of tenures and estates, we would suggest that whenever several co-sharers become interested in a particular estate or tenure and all of them agree to be separated, instead of dividing the same amongst such co-sharers according to their shares each co-sharer should be given the right to purchase the interest of others by offering the full value of their shares in the estate or tenure. But he shall have the right only when all the co-sharers agree to his exercising such right. In case of competition for such purchase the party who would offer the highest bid or value should have the legal right of purchase.

The present law embodied in section 88 of the Bengal Tenancy Act, as modified up to date, should be altered to conform to the views we have expressed.

We are confident that by such change in the law much discontent and litigation among co-sharers will be removed and people will live contented and happy. The evils of domestic trouble in many families of Bengal may thus be removed.

Q. 45. To remove the evils of management of estates and tenures owned by a large number of co-sharers who cannot work harmoniously, this Association suggests that in case of every disagreement a co-sharer should take advantage of the provisions already given in the Bengal Tenancy Act for the purpose.

Q. 46 & 47. This Association asserts that the framer of the Permanent Settlement Regulation had never contemplated that the landlords would not be able to increase their profits by enhancing the rate of rent at which the cultivating raiyats then used to pay.

Q. 48. No, there is no basis for such a belief.

Q. 49. During the last district settlement, under sections 50 and 6 of Bengal Tenancy Act, the tenants got the opportunity of establishing that their tenancies existed from before the time of the Permanent Settlement. Law allowed them the benefit of presumption. If the tenants could have proved that they had paid the same rate of rent for 20 years, they were presumed to have held at that rate from the time of the Permanent Settlement, and where they succeeded, their rents were recorded in the settlement records-of-rights as Mokarari and only in the event of their failure to do so, their rents were not so recorded.

Those matters were agitated in the settlement courts and went up to appeals before the Calcutta High Court in many cases and are now re-judicated and cannot be re-agitated.

The settlement records-of-rights are final and conclusive on the point unless the presumption value thereof be rebutted by production of contrary evidence. Under the above circumstances, no tenant can have any grievance on the point.

Q. 50. It was never the intention and never a mistake. There are corresponding provisions for reductions or abatements as well. To quote Marquis Cornwallis, the rents of an estate can be raised by inducing the raiyats to cultivate the more valuable articles of produce and to clear the extensive tracts of waste lands which are to be found in almost every zamindari in Bengal (*vide* the Minutes of Lord Cornwallis).

Q. 51. It was never the intention, and there is nothing in any Regulation from which this intention can be inferred.

Pargana rates did not in the fact exist at the time of the Permanent Settlement. Sir John Shore observed "At present no uniformity whatever is observed in the demands upon the raiyats. The rates not only vary in different collectorships but in the parganas composing them, in the village and in the lands of the same village, and the total exacted for exceeds the rates of Todar Mal."

Regulation IV of 1793 gave the zamindars power to recover rents at the rates offered in the lease, whether the raiyat agreed or not; and the zamindars were thus enabled to distrain for rent at those rates and to put on the raiyats the onus of proving that the rates so claimed were not established rates.

Q. 52. As regards item No. 1, its defect is that the rent of land depends not on its own fertility but on the fertility of other lands; and assumes a fluctuating character in as much as land which is the

basis of comparison may alter materially from time to time, and circumstances affecting the profit affect the rent.

As regards item No. 2, large number of people having small parcels of land and living on subsidiary occupations shall escape payment of rent. This will stimulate fragmentation of interests and creation of uneconomic holding.

As regards item No. 3, this was the basis during the Hindu and the Muhammadan period. According to the Hindu system, Government was entitled to one-sixth of the value of the produce and in Emperor Akbar's time to one-fifth. This should be the principle of determining fair and equitable rents in Bengal.

As regards item No. 4, this has not been adopted in the province at any time.

As regards item Nos. 5 and 6, these have been elaborately discussed in answer to question 53.

Q. 53. The agricultural rent in Bengal is neither competitive nor even customary. The rate is determined by Government.

During the Hindu and Muhammadan period, a definite share of the produce was the basis of calculation. During the period of Company management, competition played an important part in influencing rent in Bengal. After the great famine of 1769-70, there was dearth of peasants. The Government compelled the zamindars to court the peasants to undertake the cultivation of waste lands. "The resident cultivators had only to migrate a few miles to get land at low rates of rent." The cultivators gave terms which were lower than customary rate and the zamindars had to accept the terms. During this time, a class of raiyats known as vagrant raiyats grew up. They held lands at lower rates. They took settlement from one zamindar for one season at a lower rate, and if the zamindar tried to raise rent, they migrated to another place and settled with another zamindar at a lower rate than what was customary.

These vagrant tenants reduced the customary rent and the law of supply and demand worked with vengeance on the zamindars, and rent instead of going up to the level of economic rent settled down to the customary rate.

Then from 1859 onward, there was the reign of law. Rent was settled by the legislature on customary rate and the chances of enhancement were gradually reduced to nil. The principle that is accepted by the legislature is that rent in Bengal is customary and not competitive, and hence the provision of the prevailing rate is

made. The late Justice Dwarkanath Mitter observed that "prevailing rate" meant the "rate paid by the majority of the raiyats in the neighbourhood. The duty of a judge, when dealing with a case based on this ground of enhancement, is not to determine the prevailing rate, but to find out strictly the rate which has adjusted itself and is actually paid as "nirik" by a very large majority of raiyats."

The majority of them cannot be described as lump rents. Almost all rents have and are being settled according to a rate per measurement, and in every estate there are jamabandi papers for each jama. In settlement records-of-rights the rental has been noted but not the rate. That they are not lump rents is also evident from the fact that they contain fractions in calculation, viz., annas, pies, or gondas, etc. Rates do not differ. Difference in rents is sometimes seen under the following circumstances. Almost in all estates, there was no estate survey (Ekandaj 1V e, for the entire mauza) before the district settlement. The jamabandi papers contain the total land, settled rate of rent, and the rent fixed after charcha jarip (partial survey). In tenants' "ledgers" total lands and total rents were noted. So no estate had any paper to identify the lands plot by plot so as to connect the said lands with the jama settled. During the last settlement operations, in all estates, it is seen that in the case of tenants holding two or more jotes at two or more different jamas, one jama has been recorded for the entire lands of two or more jamas and the other jamas are omitted. In many cases, where the khas lands of the zamindars are in abundance in a mahal, it is seen that a jama has been recorded for the tenanted land plus considerable portion of khas lands of the zamindars adjoining the said tenanted land. It is also seen that some portion of lands in a jote has been recorded rent free in a separate khatian and the jama has been for the the other portion and, after a few days, the tenant has made *estafa* of the jama or got it khas purchased by the landlord. It is also seen that, in the case of tenants holding two or more jotes at two or more different jamas, one jama has been recorded for lands of the said jote plus some portion of lands of other jamas and the other jamas are shown to contain higher rates. But the zamindars could neither prevent nor remedy the evil because of the absence of pre-survey papers for identification or for want of proof of encroachment on the adjoining khas land.

Q. 54. The poorer tenants have some regard for discipline and truth which in many cases are found wanting amongst the richer ones. The anomalies and irregularities as delineated in answer to the previous question have been in many cases possible because of the dishonesty of the staff, and the richer ones have been able to pay for the dishonesty, and so, in their cases, such difference is

usually seen but in the case of many poor tenants, their real jamas have been recorded. In other cases, where the mistake is bonafide, such difference is seen, irrespective of richness or poverty of the tenantry.

In many cases for the dishonesty of the staff of the jama and survey departments this has been made possible even at the initial settlement. In the zamindar's sherista, for a lesser quantity of lands, a jama is seen existing, but in the locality, the amin has given possession of bigger quantities and the settlements record has been made on the basis of possession. These are the main reasons for such difference.

Q. 56. According to the Hindu system, as mentioned by Manu, the king's share is to be one-eighth, or one-twelfth, while in time of emergency he may take one-fourth. With regard to the proportion actually taken at that time, there is considerable diversity of opinions. Sir George Campbell observed that the king took from one-tenth to one-eighth of the gross produce. Mr. Shore said one-sixth and others said something less than one-fourth of gross produce and Sir Thomas Munro said two-fifths.

In Emperor Akbar's time, Government were entitled to one-fifth of the value of produce. Before British rule, Sir George Campbell says, the State took from one-fourth to half of the gross produce, one-third and two-fifths being the most common occurrence. The famous Fifth Report of the Select Committee of the House of Commons presented in 1812 puts the State proportion at three-fifths. Mr. Shore gives two different opinions—his earlier opinion is that Government took one-third, but his later opinion puts Government share at from one-half to three-fifths. Mr. Elphinstone says, one-third is a moderate assessment and the full share is one-half. Mr. Grant says one-fourth is the proportion taken by the State and he considers the same moderate.

In view of the above, at least one-fifth should be the share recommended for universal adoption.

Q. 57. It should be alterable according to the money value of the produce.

Q. 58. There would not be any advantage in the substitution of an income-tax in place of rent; on the contrary, great hardship shall follow therefrom on the tenantry. Income-tax is generally fixed on speculative basis. The liability shall be fluctuating and, as such, agricultural debts shall gradually accumulate and there shall be no attraction for cultivation or improvement, and decline of the agricultural resources of the country shall ensue, and the situation shall be worse than what it was before the advent of British in India.

Further, a large proportion of the land in Bengal would escape the payment of revenue, and the said proportion shall steadily tend to increase.

Q. 59. Generally speaking, the fixation of fair rents within the framework of the Bengal Tenancy Amendment Act should be upheld. No organisation should be set up for fixation of fair rents at periodic intervals. In all cases, this should be done by Civil Courts, instead of by Revenue Officers as at present.

Q. 60. The landlord should get some share of the advantage derived from improvement arising out of fluvial action.

The reason is that the result of such action may be favourable as well as unfavourable and the productivity of land may either increase or decrease. As in the latter case, the tenant can demand abatement of rent. So in the reverse case, it is only reasonable that the landlord should get increment.

The fluvial action is an act of God, and the good or evil arising therefrom should be shared by all the partners in the business of agriculture. In Bengal under the Permanent Settlement, the State has parted with the whole bundle of rights in the soil and has reserved only the right to revive Crown dues in the shape of land revenue and as the amount of the latter is fixed under the Permanent Settlement the State is not entitled to claim any benefit out of the improvement from fluvial action.

Q. 61. No, we do not object.

Q. 62. Such discrimination is not feasible in practice. Further, such demands shall gradually tend to increase in large number and it shall lead to corruption and litigation.

Q. 63. No, we do not object on principle.

No, we do not apprehend so.

Q. 64. Such general provision of law irrespective of any consideration as to the classes of lands, their productive powers, crops they yield and the value they fetch, and the land revenue paid for the estate, shall not be of any practical importance to the country. One bigha of land in some locality may fetch for a particular crop an income of Rs. 120 per year; and on the other hand, another bigha of land in the same locality for another crop may not fetch an income of Rs. 5 per year. Such a general provision shall cause undue advantage to some and undue hardship to others. The existing provisions of law for reduction of rents are quite sufficient to give the tenantry legislative protection for reducing excessive rents.

There should not be any new provisions of law as contemplated in the question.

Q. 65. Matters concerning settlement and enhancement of rents, etc., should come within the original jurisdiction of Civil Courts and not Revenue Courts.

At present, in Chapter X, Bengal Tenancy Act, these affairs are dealt with by Revenue Officers at the original instance.

Q. 66. We do not know of any such case.

Q. 67. The revisional Settlements in the temporarily settled estates are usually made with the primary object of enhancing revenue.

Q. 68. In the case of permanently settled estates, there has been no case of unfair enhancements to our knowledge.

Q. 69. In the case of revision of the rents, the landlord is required to prove, if he wants enhancement, that the prices of principal food crops had increased during the preceding ten years and the tenants have gained additional advantage out of it without having made to pay any increment for that reason. So it is equitable that the tenant should pay increment even though in the period when such increment is actually realised the average price of food crop was going down.

At the same time, the tenant can at the close of that period, claim abatement of rent if he can prove that during the preceding ten years the average prices of staple food crops have been lower than those of the preceding ten years and such abatement would be allowed in this period even though the average prices of staple food crops were then on the increase.

Q. 71. No such remission of revenue has ever been granted by Government.

There are innumerable cases, recognised even in the official reports, in which the zamindars have granted remissions times without number, although they have suffered heavy losses.

Q. 72. From page 27 of the Bengal Provincial Banking Enquiry Committee Report, we find the following statistics:—

Name of crops.	Average cost of production.	Normal yield per acre.		Value of produce.
		lbs.	Mds.	Rs. a.
Jute	92	1,331	16·2	145 12
Rice (cleaned) ..	47	1,022	12·4	82 2
Cane sugar (gur) ..	276	3,054	37·2	318 8

The ordinary peasant does not spend so much. The above cost is shown on the assumption that all labour, human and cattle, is paid for and hired. The average cost of cultivation will come down considerably.

In our opinion the figure for the yield appears to be much lower and the figure for average cost of produce appears to be much higher. Statistics should be as follows:—

Name of crops.	Cost of production.	Yield per acre.
		Mds.
Jute	72	24
Rice	15	20

Q. 73. Yes, the productivity of the soil in Bengal is on the decrease.

The reasons therefore are dealt with in answer to question 77.

The Government has not so far done anything or taken any step to improve such conditions.

Q. 77. From estimates of area and yield of the principal crops in India in 1928-29. We find the following statistics:—

Crops.	Area cropped in acres.	Total yield in maunds.	Harvest price per maund.	Price of produce.
			Rs. a.	Rs.
Rice	21,403,000	271,152,000	6 10	179,63,82,000
Wheat	123,000	896,000	6 0	53,76,000
Barley	82,000	728,000	9 9	25,93,500
Jowar	4,000	28,000	3 0	84,000
Bajra	2,000	28,000	3 0	84,000
Maize	94,000	868,000	3 0	26,04,000
Gram	143,000	1,176,009	5 8	64,68,000
Sugarcane	196,000	6,088,000	8 9	5,17,86,000
Cotton	79,000	90,000	33 0	29,70,000
Jute	2,917,000	43,300,000	9 0	38,98,00,000
Linseed	132,000	532,000	8 0	42,56,000
Rape and Mustard seeds ..	700,000	3,444,000	8 12	3,01,35,000
Sesamum	153,000	644,000	9 0	57,96,000
Tobacco	291,000	3,416,000	20 0	6,83,20,000
Other crops	2,383,700	at say Rs. 30	per acre	7,15,11,000
Total ..	28,702,700			243,80,65,500

There are 6 millions of cultivating families, and if we divide the total value of crops produced, we get the average income of the agricultural family to be Rs. 406. The Provincial Banking Enquiry Committee has calculated Rs. 44, as the average annual income of an agricultural family from subsidiary occupations such as sale of cocoanuts, betelnuts, and other fruits, sericulture and cultivation of lac in Malda, Rajshahi, Birbhum and Murshidabad, poultry farming and sale of eggs by Muhammadan cultivators nearly in every district but principally in Noakhali and Chittagong; sale of milk and vegetables, rearing of goats and sheep, working as a boatman in northern and eastern Bengal. Thus the income amounts to Rs. 450 a year.

The said Committee also estimated the expenditure of an agricultural family to be Re. 420 a year thus:—

	Rs.	a.
Implements	3	10
Cattle	12	0
Seed	13	0
Manure	..	
Labour	40	8
Total ..	69	2
Rent and cesses and rates—		
Rent	25	0
Cesses	0	12
Commission	1	9
Rates	1	1
Total ..	28	6
Food	225	0
Clothing	35	0
Lighting	5	12
Tobacco and betel	7	12
Repair and renewal	12	0
Social and religious ceremonies	15	0
Miscellaneous including education, amusements, entertainment of relations or visitors	22	0
Total ..	62	8
Grand Total ..	420	0

Thus, if from the average income the average expenditure is deducted, a surplus of Rs. 30 is left per family.

According to the said Committee, the average rent of agricultural land is Rs. 4-13 per acre, and the average rent of a holding of 5·2 acres is Rs. 25, the cesses at half anna per rupee will be 12 annas. The total amount of union rates is Rs. 42,50,273 from the Union Board population of 19,856,117. This works at Re. 1-1 per family.

From the Survey and Settlement Reports, we get the average rent for ten districts to be Rs. 3-2-4 pies, from the following statistics:—

Districts.	Rent per acre. Rs. a. p.
Dacca	2 13 0
Mymensingh	2 12 0
Tippera	3 2 2
Bakarganj	4 8 10
Faridpur	2 9 2
Noakhali	4 4 5
Rajshahi	3 3 0
Jessore	2 7 5
Midnapore	3 15 5
Bankura	1 12 7

From the Hon'ble Revenue Member Sir P. C. Mitter, K.C.S.I., C.I.E., in the February session (1933) of the Bengal Legislative Council, we get the fololwing tables:—

Statement of the proportion of occupancy raiyats, rent to average gross produce per acre.

District.	Average produce per acre.	Average rate of rent of occupancy raiyat.	Approximate percentage of rent on value of produce.
	Rs.	Rs. a. p.	Per cent.
Bankura	47	1 12 0	4
Midnapore	48	3 2 0	6
Jessore	57	2 7 0	(about) 5
Khulna	60	3 6 0	5
Faridpur	50	2 9 0	5
Bakarganj	70	4 9 0	6
Dacca	60	2 13 0	(about) 5
Mymensingh	60	2 12 0	5
Rajshahi	55	3 5 0	6
Tippera	60	3 2 0	5
Noakhali	75	4 4 0	6

The average rate of rent of occupancy raiyats throughout the province is Rs. 3-2-4 pies per acre, and the average value of produce is just over Rs. 60 per acre, and the average annual income of an agricultural family, according to the provincial Banking Enquiry Committee is Rs. 350 as against the average annual expenditure of Rs. 320. The calculation of average rate of rent does not take into account the letting value of homesteads and the produce of homestead lands attached thereto.

It is also shown that, according to the Hindu system, Government was entitled to one-sixth of the value of produce and in Emperor Akbar's time to one-fifth. On the basis of the Hindu system 16·25 per cent. should be the rental, and on the basis adopted in Emperor Akbar's time, 20 per cent should be the rental. The existing rent which is only 5 or 6 per cent is an extremely moderate rate of rent.

From the same speech, we get the following:—

Statement of rental and produce.

	Crores approximate.
Total rental of occupancy raiyats	8
(1) Total value of rice in normal time (Rs. 1,81,89,27,805 in 1928-29)	182
(2) Total value of jute in normal time (1928) ..	40
(3) Total value of other crops will be considerably above 20 crores but for the present purpose it may be taken to be as low as 20 crores	20
Total ..	250

The total value of agricultural produce in normal times is thus at least 250 crores and is likely to be considerably more.

The total rental of occupancy raiyats being about 8 crores, the percentage of rent to the total value of agricultural produce is about 3·2 taking the province as a whole.

Further, at the time of agricultural prosperity of the province, the raiyats get the entire unearned increment and in view of the costly and cumbrous provisions for enhancement in the Bengal Tenancy Act, the landlords practically get nothing over and above their rents. But in times of depression, they are virtually blamed for the fancied crime of the realisation of their legitimate rents. Thus the land system of Bengal is not at all responsible for the present uneconomic condition.

The Bengal Provincial Banking Enquiry Committee says: "If we assume that the whole of the cultivated land in Bengal, viz., 23 million acres according to the return for 1928-29 valued at Rs. 300 an acre on an average belonged to agriculturists, their property was worth 690 crores of rupees. Thus even if a liberal allowance is made for intermediaries the Bengal raiyat is far from insolvent."

The following are some amongst the causes responsible for the present uneconomic condition of the raiyats:—

(1) *Pressure of population.*—This is the main cause which had been dealt with in answer to question 81. Therein, it has been shown that about 37·8 is the surplus. The Census Report of 1931 shows that the population is 51 millions in an area of 82 thousand square miles.

Mr. Beasmes, a Commissioner, said:—

"The raiyat suffers from causes over which no Government can have control; the country is overpeopled; and the intensity of the struggle for existence is due principally to this cause and not to the incapacity or bad management of the zamindars. Everyone will marry and will have heaps of children, no one will emigrate, a vast majority will grow nothing but paddy, and the poorest will spend in advance the earnings of ten years on a marriage feast or a religious ceremony."

(2) *Uneconomic holdings and fragmentation of interests.*—From the Settlement Reports, we find the following statistics:—

District.	Size of the average raiyati holding. Acres.
Bankura	1·86
Midnapore	1·26
Jessore	1·78
Bakarganj	2·51
Faridpur	1·39
Dacca	1·52
Mymensingh	2·67
Rajshahi	2·20
Noakhali	2·30
Tippera	1·90

The average for the 10 districts comes to 1·94 acres.

The Census Report of Bengal for 1921 says that there are 30·5 million cultivators. The cultivated area of raiyati holdings is 24 million acres. So, the size of a raiyati holding is ·79 per cultivator.

The smallness and fragmentation of holding is further facilitated by the growth of population and the law of inheritance, and involves a greater expenditure of capital and smaller return than if the same is in one compact block.

(3) *Defects in agricultural labour, equipment and organisation*—The cultivators are extremely backward, lacking in originality and initiative, and are malaria-stricken and diseased, and have become lethargic. The man behind the plough is the most important factor in the improvement of agriculture, and this factor is hopelessly defective.

There is no application of manure and fertilisers for increasing yield and the equipments for ploughing are primitive and unscientific, and the cattle power is exceedingly low. The province is maintaining an excessive number of cattle, poor and ill-fed and inactive, and the cattle power is exceedingly low. The province is main- statistics will corroborate the above:—

	Per 100 acres of net sown area. Number of cattle.
Bengal	108
Madras	66
Bombay	34
United Provinces	88
Punjab	57
Bihar and Orissa	82
Central Provinces and Berar	47
Assam	97
Burma	37
Holland	38
Egypt	25

(4) *Absence of credit agencies.*—They require more money at the time of cultivation which the present agencies cannot adequately supply.

(5) *The silted rivers in Bengal bring about appalling decline in agriculture, sanitation, etc.*—The Irrigation Department Committee, Bengal (1930), observed that the deterioration has already proceeded so far that it cannot now be checked and that central Bengal is doomed to revert gradually to swamp and jungle.

In malaria-stricken areas, the jungle is on the increase.

(6) *Water hyacinth pest.*—In eastern Bengal, the pest is causing havoc on crops.

(7) Bad roads considerably deter the economic developoment of the country.

(8) Want of rain water in due time is responsible for failure of crops in some years. As in other provinces, the agriculturists should be prevailed upon to use "Don" for irrigation on a miniature scale.

(9) Irrigation of the province has been seriously handicapped by construction of railway lines, without providing for proper drainage or outlets. Agricultural Department does not practically render any practical assistance.

(10) The Government policy is responsible to some extent. The lands are being taxed from day to day. Cess rates operate harshly on many agriculturists. Then, further taxation in the shape of education cess is also being imposed. The union rates are also on the increase from day to day. The principal commodities for daily use are also taxed, and the trend of such taxation is on the gradual increase.

The Government has made an arrangement to provide for marketing facilities and to effect adjustment of supply and demand.

The mighty and generous mind of Lord Cornwallis was concentrated on the improvement and extension of agriculture. He appreciated that unless moneyed men had encouragement to embark their capital in the purchase or improvement of land, the talk of such improvement and extension should be more academic than practical. So, he directed his energies towards making the capital and profit of such investment secure. But, since 1859 tenancy legislation after legislation is coming surging on the country, not with any object of improvement or extension of cultivation, but with the object of transferring the rights from superior interest holders to subordinate holders, and things have come to such a pass that the entire rights have passed from the zamindars to the raiyat without the transference of any portion of responsibility. Not only that, the recent tenancy legislations and the Bengal Agricultural Debtors' Act, and the workings of constitutional reforms, etc., have made the collection of rents an impossible task, but the rigid iron-frame of revenue laws has been left untouched and those have made not only the profit, but the security of the capital itself most precarious. The Government does not take the responsibility of improvement on its shoulders, and has passed legislation after legislation in such a way that moneyed men repent past investment and have no attraction for further investment.

From the official reports mentioned in answers to questions 3 and 7, it has been shown that the tenants were happy and prosperous, and the zamindars were exceptionally moderate, lenient and charitable towards their tenantry before 1885.

But, since the passing of the Bengal Tenancy Act, the economic status of the landlords and tenants has been seriously affected, and far from extension and improvement in cultivaton, there is clear apprehension of the province gradually becoming dreary jungles. The zamindars are discouraged and almost handicapped in the matter of improvement, and moneyed men have no inducement in the purchase or improvement of lands, and improvement of lands on an extensive scale is outside the financial scope of individual tenants, and the Government budget falls into deficit after disbursement under heads—salaries in various departments.

Since 1885, there is tooth and nail contest about division and distribution of rights over lands but nobody thinks for the land itself.

The following extracts from the Minute of the Chief Justice (The Hon'ble Sir Richard Garth), dated 6th September 1882, on the Bengal Rent Bill would show the chief wrongs inherent therein:—

"I take it to be clear that any Government in case of real emergency has a right, so far as it is necessary, to interfere with vested right, to whomsoever they may belong or howsoever they may have been created. But then I take it to be equally clear that without some such actual necessity no Government is justified in interfering with the vested interests of any class of its subjects, more especially when those interests have been created and defined after due consideration, by the State's own legislative enactments.

For myself, I see no such necessity; and I am bound to say that amongst the many complaints on behalf of the raiyats, which have been published by the Government in connection with this subject, I have been unable to find a single statement that raiyats themselves desired anything of the kind.

It was proposed for the first time by certain members of the Rent Commission and it is supported, as I understand, not upon the grounds of actual necessity, but because in the opinion of those gentlemen, the raiyats were or ought to have been in a better position some ninety years ago than they are now, in the interest of the State, to place them in that position.

The landlords complained principally of two things: first that the machinery of the civil courts was not sufficiently effective to enable

them to realise their rents in time to pay the Government revenue; and secondly, that either the provisions of the Rent Law were too strict, or the construction which the courts have put upon them too narrow, to enable the landlords to enhance their rents as readily and as largely as the legislature had intended.

The complaints of the raiyats were not so well defined. They appear to have been brought to the notice of the Government, not by the raiyats themselves, but for the most part by the executive officers, whose duty it was to quell the disturbances which arose from time to time in the agricultural districts, and to enquire into the cause which led to them. I believe, however, that I am correct in stating, that their principal matters of a complaint as disclosed in the published papers, were:—

Firstly, abuse of the power of distraint;

Secondly, illegal attempts to enhance rents, and to enforce the measurement of lands;

Thirdly, the imposition of abwabs and cesses in violation of the law; and

Fourthly, the refusal and the neglect of the landlords to give proper receipts for rent and their omission to keep regular accounts, which rendered uncertain the demands made upon the raiyats and gave rise to constant litigation.

But whilst I yield to no man in the earnest wish to see all necessary and wholesome reforms carried out, I confess I view with horror and dismay the revolutionary provisions of the present Bill. It appears to me absolutely cruel, to sacrifice want only and unnecesarily the rights of one section of the community for the supposed benefit of another; to violate laws and usage which have been sanctioned by the courts and the legislature for nearly century; to unrip a solemn settlement of vexed questions, which was made by the Bengal legislature no later than twenty years ago; and all this, not for the purpose of meeting any actual complaints, or rectifying any proved abuses, but merely to place the raiyats in a position which certain well-meaning but, as I think, mistaken, members of the Rent Commission imagine that they occupied in the year 1793.

The change to which I particularly allude, and which appear to me especially unjustifiable are the following:—

1st.—The unwarrantable extension of the right of occupancy as settled and defined by the Act of 1859;

2nd.—The arbitrary lines now sought to be imposed for the first time upon the enhancement of rents.

3rd.—The proposed rules in Chapter V to contract the letting of land for building purposes;

4th.—The transferability of raiyati tenures, with the consent of the landlord.

5th.—The exemption of occupancy tenures from being *sold in* execution for the debts of their owners; and,

6th.—The retrospective effect which is given to some of the proposed enactments entirely in favour of the raiyats and against the landlords.

What the zamindars of Bengal now ask is nothing more than to have their present undoubted rights duly enforced." They want no new privileges, and they certainly ask for nothing which the Rent Law of 1859 did not intend to give. They only want due payment of their rents, and such an enhancement of them from time to time as the Rent Law intended to allow. And how does this justify the Government in going behind the Act of 1859, and taking away from the landlords the rights which that Act gave them?

Now, if it is necessary, as a matter of public policy, to deprive the landlords of their rights, let us at least be honest about it, and say so, but don't let us attempt to thrust such a blind pretence down the throats of an intelligent people.

By the Acts of 1859 and 1869, the relations of landlord and tenants had been settled by the Bengal Government, and upon the faith of that settlement many thousands of estates had been purchased by the zamindars, and many lakhs of rupees expended upon those estates.

Now my object in drawing this comparison is two-fold. I wish to show;

1st.—How entirely the landlords will be deprived by the proposed Bill of their former rights and positions and how little interest they will have for the future in the welfare and improvement of their prosperity; and

2nd.—How completely the class of persons who in the future would hold the status of the occupancy raiyat would have the advantage, both as regards profits and control, over all others interested in the land. The profits and the power which you are taking from the landlord you are giving to the occupancy raiyat; and the liberty of contract which you think it is unsafe to entrust to the highest and best educated noblemen in the province, you are committing with the utmost confidence to the class who will fill the status of occupancy.

For these reasons I venture to think that the proposal of the Government with regard to the right of occupancy will not only be cruelly

unjust to the landlords, but will operate most injuriously to the very class which it is intended especially to benefit. You may change the law, but you cannot change human nature, nor secure the most valuable rights for the poorest class of the community. If the lot of the raiyat is hard now, you may be sure that it will be still harder if Mr. Reynold's Bill should pass into law.

The Collector of Jessore said "I consider the Bill to be a most arbitrary, partial and unjust measure. It will sever all friendly ties between landlords and tenants and lead to a state of things that must have disastrous results. There is nothing in it that will facilitate the collection of rents and very little that will do any real good to the raiyat. In fact, the Bill seems to have only one object and that is to stamp out landlords."

The Royal Commission on Agriculture in India in which the present Viceroy was the Chairman said:—

"Where existing system of tenure or tenancy laws operate in such a way as to deter landlords, who are willing to do so, from investing capital in the improvement of their land, the subject should receive careful consideration with a view to the enactment of such amendments as may be calculated to remove the difficulties."

The suggestion is that the entire tenancy legislation should be moulded in such a way as to encourage moneyed men to invest their capital in the purchase and improvement of lands and the facilities for speedy realisation of rents from undertenants, with less cost corresponding to their obligations for revenue, should be forthwith introduced. The present cess and union rates should be at once reduced and further imposition of education cess or other taxes should be stopped, Marketing facilities on co-operative basis should be provided for, and adjustment of supply and demand should be effected.

Sincere attempts for removal for water-hyacinth pest should be made, and the agriculturists should be imparted some training to irrigate their fields on a miniature scale by means of don.

Q. 78. This point has been dealt with in answer to question 77.

Q. 79. This Association does not consider it feasible to follow the system followed in the United Provinces for recording a statement as to the crop raised in every plot of land as the costs will be ruinously heavy. Nor this is at all necessary in permanently settled areas of Bengal.

Q. 80. This point has been dealt with in answer to question 77.

Q. 81. Yes.

The Census report shows that population is gradually on the increase—

Year of census.	Population. Millions.	Increase. Percentage.
1872	34·6	..
1881	37·0	6·7
1891	39·8	7·5
1901	42·8	7·7
1911	46·3	8·0
1921	47·5	2·8
1931	51	5·1

A comparative statistics showing the density of population per sq. mile is given below:—

	Per square mile.
Bengal	579
Madras	297
Bombay	143
Great Britain	485
France	184
Netherlands	544
Denmark	194
United Provinces	414
Bihar and Orissa	340
Punjab	184
Germany	322
Italy	313
Belgium	654
United States of America	32

37·8, at a moderate calculation, appears to be surplus.

Q. 82. The pressure on the soil can be relieved by extending and intensifying cultivation, by emigrating the surplus portion and also by the diversion of population from agriculture to industries by starting Government-aided factories.

Q. 83. The mahajans of Bengal have so long helped the agriculturists to a considerable extent. Even though their rate of interest in

some cases was rather high, they served well in financing the agriculturists at the time of need, specially in the cultivating season.

The introduction of Bengal Agricultural Debtors Act has reduced the activities of the village mahajans to the great disadvantage of the agriculturists and to the prejudice of the agricultural interest of the province.

It is suggested that Government should at once repeal the said Act, and improve agricultural credit.

There is no efficient Government organisation, and the want was being amply supplemented by the mahajans up to this time.

Q. 85. The total agricultural debt for Bengal has been estimated at Rs. 100 crores.

The loans supplied by the co-operative societies amount to Rs. 4 crores only.

On the 30th June 1929, there were 16,889 agricultural credit societies with a membership of 407,552 and a working capital of Rs. 4,21,19,119. It touches only a small proportion of rural Bengal. It is found that the societies are established in only one out of 5 villages in the province, and the proportion of agricultural families benefited is only about one in fifteen.

Q. 86. The introduction of Debt Settlement Boards—an institution of compulsion without compensation—has intensified and aggravated the credit problem of the agriculturists and has threatened a sharp decline and disintegration to the agricultural resources and the economic structure of the province.

The agriculturists themselves resent this introduction and, having no adequate institutions in rural Bengal to finance moneys for cultivation and other purposes, have become absolutely helpless. As a result, many tracts in each district are left uncultivated and further continuance may be followed by dire consequences.

The Bengal Agricultural Debtors Act has supplied additional impetus and strength to the agrarian agitation and no-rent campaign, and has caused an all-round suspension of rent. It has a sinister disintegrating effect on the economic structure of Bengal. It has engineered a class-war and an all-round communist spirit—"Rent is payable when able; lands belong to those who plough, etc."

This Act has made possible for the debtors to evade the just obligations to the creditors.

Mr. H. P. V. Townend, C.I.E., Commissioner of Burdwan Division, at an annual Darbar recently held at Chinsura, has given expression to

his reading of the situation that has arisen in Bengal by the recent debt legislation in the following terms—"There are tendencies developing which threaten to lose more ground than work for village uplift can possibly gain. These tendencies are two in number and they are symptoms of one disease, which at bottom is nothing more or less than dishonesty—a tendency to defraud landlords by withholding rents and a tendency to defraud creditors by withholding payment of debts. Referring to the widespread nature of the tendency to withhold payment of rent he said, "It is interesting to speculate why this tendency to refuse rents has grown up. Undoubtedly it has its origin in the irresponsible electioneering speeches made by candidates of all parties who sought election to the legislature early last year. To get the cultivators' votes they spoke as if the interests of cultivators alone would be considered in future. There was talk of the abolition of the Permanent Settlement, which was understood to mean the abolition of all tenures, and everything possible was done to arouse discontent and to inflate expectations."

His Lordship Mr. Costello, Justice of the Hon'ble Calcutta High Court, in his judgment has described the Act in almost identical terms. The rigid iron frame of revenue sale law has been kept in tact. But the legislature has put a serious hindrance to the landlords in realisation of rent by bringing rent within the scope of the said Act. This Act operates very harshly on the landlords. When rent has been included it is equitable that revenue also should have been included within its scope. By introduction of this Act, impressions have gained round in the mahals that landlords have no legal remedy at their disposal for realisation of rents and some portion of tenantry take advantage of this Act, and the rest await institution of suits as an opportune occasion to avail of it.

Q. 87. The suggestion appears to be inoffensive.

Q. 89. Yes. The machinery is costly, cumbrous, unnecessary, harassing and expensive.

From institution up to satisfaction, in a rent suit, there are three stages:—

(1) *First stage.*—Institution of suit up to a decree.

For institution of a rent suit, an ad valorem court fee of Rs. 11-8 per cent. on the claims is affixed on the plaint, and a court fee on vakalatnama, and process fees at the rate of annas 4 generally per defendant in munsiff's court, and annas 8 per defendant in the Sub-Judge's court, and boat hire and conveyance charges at one-fourth of the said process fees.

Then, if the suit be decreed *ex parte*, a certified copy of the decree is necessary for execution. Pleader's fees at the rate of Rs. 5 per cent. in contested cases and Rs. 2-8 in *ex parte* cases are charged.

(2) *Second stage.*—Execution of decree up to khas purchase and taking of sale certificate.

After decree, the court becomes *functus officio* and does not look to realisation.

Then, petition for execution is filed with a court fee of annas 12 and a court fee of Re. 1 on vakalatnama and with process fees at the rate of annas 4 per defendant in Munsiff's court, and annas 8 per defendant in the Sub-Judge's court, and boat hire including conveyances at one-fourth of the said process fees.

Further process fees at the rate of Rs. 1-8 for claims upto Rs. 50 and at the rate of Rs. 2 for claims above Rs. 50 for attachment of movables, and Rs. 7-8 custody fee for attachment of movables over Rs. 20. For sale proclamation a process fee of Re. 1 and a drum charge of annas 8 is needed. Further advertisement costs in the local newspapers are necessary.

Further registered post cards per defendant at the rate of annas 5 are necessary.

When the jotes are put up to sale, Rs. 2 per cent. on the amount bid are necessary. If the jotes are khas purchased by the landlords, a further petition with a court fee of annas 12 in claims over Rs. 50 and annas 2 in claims below Rs. 50 is necessary.

Then a stamp at the rate of Re. 1-8 on the amount bid is necessary for taking sale certificate. Then the court ceases to function again.

(3) *Third stage.*—Filing of petition with sale certificate up to delivery of possession.

A petition with a court fee of annas 12 and a process fee of Re. 1 and drum charge of annas 8 is necessary. Then the peon goes to the locality and gives symbolical possession by putting a bamboo peg (jhanda) on the ground.

Here the tenants do not part with possession and continue in possession. Here the court draws a fine distinction between symbolical possession and actual possession, and the criminal court generally finds that the actual possession rests with the tenants and finds in their favour.

Then the landlords have to file a title suit with court fees at the same rate on the value of the land and with identical costs and take possession with identical result.

On the 9th January 1794, the Collector of Burdwan in a letter to the Board, assigned reason for inability of the Burdwan Raj to discharge the responsibility for punctual payment of revenue, unless "He (Raja) be armed with powers as prompt to enforce payment from his renters, as Government had been pleased to authorise the use of, in regard to its claims, on him."

On the 12th of February, 1802, the Collector of Midnapur reported to the Government that the system of sales and attachments which has been substituted for it has, in the course of a very few years, reduced most of the great zamindars in Bengal to distress and beggary, and produced a greater change in the landed property of Bengal than has perhaps ever happened in the same space of time, in any age or country, by the mere fact of internal regulations.....

It was notorious that many of them (zamindars) had large arrears of rent due to them which they were unable to recover, while Government were selling their lands for arrears of assessment. Farmers and intermediate tenants were till lately able to withhold their rents and to set the authority of their landlords at defiance. Landholders had no control over them, except through the courts of justice and the ends of substantial justice were defeated by delays and costs of suit.

The famous Fifth Report of the Select Committee of the House of Commons acknowledges that large number of public sales was due to the "Unavoidable consequences of defects in the public Regulation combined with inequalities in the assessment, and with difficulties obstructions and delays with which many nice distinctions and complex provisions of the new code of Regulations were brought into operations."

The slow and costly progress of civil suits under cumbrous buttresses of civil laws cause considerable handicap and expense in the realisation of rents from tenants, while the Government has summary procedure for speedy realisation of its demands from the zamindars. This inequity and injustice has been the cause of ruin to many landlords and tenants.

Sir George Campbell observed:—

"To any one who should follow any land suit, taken at random from the files of our courts, in its inception, origin, and progress through many appeals to final decree and then should observe how the attempt to carry out the decree breeds half a dozen new suits, the wonder must be how any people can tolerate such a state of things."

Suggestions—

A machinery similar to that applicable to patni tenures should be introduced. Just as in a patni sale case, the landlords should be

authorised to apply before the Collector on the last kartic and last baisack for sale of raiyati holdings and tenures with identical procedure for realisation of current rents.

For realisation of arrear rents, the Court should proceed, as in certificate cases, in one continuous proceeding without break till satisfaction of the decretal dues, and the procedure available in certificate cases should be introduced. After decree, the Court shall give a date within which the decretal dues should be paid, and in default of payment within the said date the landlords shall have right to re-enter on the jote and to get automatic possession.

The English law practice of declaring the defaulter a trespasser as soon as default is made should be introduced here by local legislation. This is the easiest method of speedy realisation of rents at the least cost and trouble to either side.

Q. 90. It is neither harassing nor objectionable. In certificate cases the tenants can file identical written statements as in rent suits, can adduce identical evidence as in rent suits. In rent suits, there are three stages, and at every stage, the landlords shall have to move the court for further continuance:—

(1) *First stage.*—Filing of petition for execution of the said decree upto khas purchase.

(2) *Second stage.*—Filing of suits upto a decree.

(3) *Third stage.*—Filing of petition for publication of sale certificate upto delivery of symbolical possession.

In a certificate case, the work of the aforesaid three stages are done in one continuous proceeding and more promptly. Save and except in respect of prompt and speedy disposal, the certificate and the rent suit has no difference in substance in any other direction.

Q. 93. Vast tracts of lands shall pass to the non-agriculturists, and landlords' fee was a check and preventive on involuntary transfer, and the tenants shall not be benefited in the least by such legislation, and, on the contrary, they shall be seriously prejudiced by rush of involuntary sales in consequence of removal of the check.

The economic conditions of the landlords shall be seriously affected by such legislation without benefit to the actual cultivators of the soil or the State.

The loss of landlords' income under the head may be estimated at about 40 lakhs of rupees every year. In 1935-36 the amount realised as transfer fee amounted to Rs. 38,64,222.

The transfer fee is to be regarded as the symbol of the ownership of land being vested in the landlord. The abolition of the fee is the abolition of that symbol as well. The abolition of the transfer fee amounts to the expropriation of the sacred right of the ownership which was vested in the zamindars by the Permanent Settlement Regulation of 1793.

The estates have been bought and sold during the last 150 years on the basis of the income which was derived not merely from rent, but also from this perquisite. The market value of the zamindaris, taluqs and tenures is lessened by such abolition.

Reply by the Khulna Landholders' Association.

Q. 1. The terms of the Permanent Settlement are clear and simple. So far as we can gather, from time immemorial, Rajas and zamindars were the proprietors of the soil and tenants held land under them. There appears to be no codified law, defining the duties and liabilities of the parties. So far as we can gather, raiyats had hereditary but non-transferable interest in the land. The Rajas and zamindars were something like feudal chiefs. The Rajas and zamindars maintained internal law and order and there was very cordial relationship between the parties. During the Muhammadan time, as can be traced from history, demands were occasionally made of zamindars for additional revenue for their estates. After the grant of Dewani to the East India Company in 1765, the same state of things as to the relation between the landlords and tenants continued. Nothing new was done to change the old state of things nor any necessity was felt for that. Land revenue was fixed temporarily and on many occasions annually with these hereditary Rajas and zamindars; but there was no law before, that failure to pay Government revenue would entail the sale and loss of the estates. There was no regular payment of Government revenue at any stipulated time. This system of irregular payment and periodical revision of revenue proved troublesome and disadvantageous to the East India Company which decided upon fixing the revenue of estates for perpetuity and fixing the time of payment of revenue strictly. In doing so no question arose to define the rights and liabilities of the tenants and landlords. It was left where it was. After the Permanent Settlement was concluded, the duties and liabilities of the tenants and landlords came up for consideration, and Act X of 1859 was passed. Subsequent legislation, Act VIII of 1885, considerably improved the status of the raiyats and clearly defined the rights and liabilities of the tenants and landlords and the legislations of 1929 and 1938 have gone too far, rather to encroach upon the rights of landlords enjoyed from time immemorial. No provisions of law in human affairs can or could be exhaustive. It is clear from subsequent legislations, that after the Permanent Settlement was concluded, the duties and liabilities of the zamindars conferred thereby were not considered exhaustive.

The cultivating tenants were never before proprietors of the soil but they had hereditary right in ordinary cases to hold the land.

It does not transpire from any provision of the Regulation I of 1793 that any existing rights of the tenants were touched or taken away.

Q. 2. It does not seem that the Permanent Settlement gave any new rights upon the then existing tenants. This view gets its corroboration from section 6 and section 160 of the Bengal Tenancy

Act, 1885, when for the first time the rights and liabilities of the tenants and zamindars were more clearly defined. But as regards waste and unculturable lands, which were to be newly brought under cultivation, the zamindars got wide powers to choose their tenants. They were entitled to let out lands to whomsoever and in whatever way they liked. It appears from public records that they were also authorised to enforce tenants to produce more profitable crops than they had hitherto done.

Q. 3. It does not appear that by the Permanent Settlement any function, other than payment of revenue at the stipulated period, was expected from the zamindars. But from the tradition of their position as feudal chiefs, they looked after the welfare of their estates and tenants admirably well. They maintained internal peace and order to a great extent, which can be traced from the fact that even to this day zamindars or their agents settle petty disputes and troubles in large numbers, arising amongst their tenants—thus saving them from ruinous litigations. They helped their tenants by way of loan in time of distress, in case of failure of payments of rents by waiting till the limitation time of 4 years, although they were to pay their revenue kist by kist, taking bonds for dues which were going to be time barred without bringing upon them litigation costs. In very many cases no notice is taken of the limitation law for realisation of rents from raiyats and tenure-holders paying comparatively smaller rents and allowing them to be time barred and subsequently realising them amicably. The landlords have contributed much towards cultivation of waste lands by erecting embankments and damming khals, to improve cultivation. Before the establishment of district boards they were the zamindars who largely constructed the roads and excavated tanks within their estates. Almost all the private schools and colleges of Bengal, charitable dispensaries and buildings for humanitarian purposes, owe their origin to the liberal gifts of the landholding classes and they have always helped the State by benevolent gifts in acts of public utility. Their gifts in time of general distress attended with, cyclone, famine and earthquake, are often generous and too often acknowledged by the Government. On the whole it appears that although there was no legal obligation upon them, the zamindars very well contributed towards the economic development of the country.

Q. 4. The ruling Chiefs, zamindars and Rajas from time immemorial in this country were the actual proprietors of the soil. Nothing can be traced out to assert or substantiate that the cultivators were even the actual proprietors of the soil. The cultivating raiyats in most cases had hereditary rights in land but their tenancies were non-transferable. It is not a fact that the Permanent Settlement converted the collectors of revenue into proprietors of soil. Before the Permanent Settlement there were ruling Chiefs, hereditary Rajas and zamindars who were the actual proprietors of the soil with far larger rights

and powers and there were also a class of landlords who were, as it appears from history, to some extent collectors of revenue. But the Permanent Settlement all of them were brought to one level and category.

Q. 5. It is patent that the annulment of Permanent Settlement would be a breach of the solemn pledge given by the East India Company to the zamindars with ratification by the British Parliament. Before the Permanent Settlement the ruling Chiefs, Rajas and zamindars were the hereditary proprietors of the soil exercising far greater powers than those conferred by the Permanent Settlement or subsequent legislations. At a time when the East India Company was greatly economically embarrassed, it was the Company who thrust upon the zamindars the so-called boon of Permanent Settlement at an exhorbitant revenue, bearing a very small margin of profit to them from the collections of rents from tenants. Had there been no Permanent Settlement, the zamindars had to lose very little. It seems to us that to shelve the miseries that came upon the zamindars by the introduction of the Permanent Settlement and the new law of putting zamindaris to sale in case of default of payment, it was trumpetted as a boon as a sort of propaganda. No doubt they got a valuable new right as to fixity of their revenue but that at such an exhorbitant revenue that most of the hereditary zamindars and Rajas of ancient families were deprived of their zamindaris and were reduced to beggary (*vide* report of the Collector of Midnapore, dated 12th February 1802) due to sale of their estates for inability to pay the Government revenue. There passed a period of untold miseries. New sets of landlords came in by purchase in revenue sales of the rights of the former zamindars (this could not be done in the Muhammadan time). They spent heavy sums of money for improving their estates by reclaiming waste lands, raising embankments, damming khals and rivers, cutting jungles and introducing new tenants thereon, even helping them pecuniarily for meeting their cultivation costs and for purchase of cattle. As with the gradual increase of revenue the position of the zamindars began to be easier, acquisition of zamindari right began to become a charming thing. Many people who could accumulate wealth by service or following some other profession or business, thought it profitable to invest the whole of their life's savings in purchasing zamindari rights for the upkeep of their family members. Gradually the price rose up with the gradual increase of number of intending purchases by competition. Now by the lapse of nearly a century and a half when the position of the zamindars have been greatly adjusted, it will be certainly a moral and legal wrong to propose abolition of the system. It is no argument that the tenants were no parties to the Permanent Settlement. Tenants had nothing to suffer or gain by the Settlement. No provision whatever was made against their interest. The sovereign power had the authority to vary

the revenue of the zamindars from time to time. A contractual relationship was created between the sovereign power and the zamindars, that the former would not vary the revenue in future and the latter promised to pay it at stipulated times on pain of their zamindaris being sold away in revenue sale in case of default of payments. History proves that they were not declared proprietors of the soil for the first time then nor the tenants were even proprietors of the soil before this nor proprietary rights of the tenants were snatched away behind their back and delivered to the zamindars.

It no doubt shows that the present revenue derived from tenants leaves a good margin of profit to some of the landlords but this is the outcome of the labour and capital invested by them for the improvement of their estates. Investments in banks and Government securities individually may similarly be assailed to some extent that big accumulations by some individuals are detrimental to the economic development of the country. The interest on the purchase money of the zamindaris and tenures by Government, comparatively bigger establishment cost for collection charges, and fluctuation of realisation of rents from ordinary raiyats, loss of road and public works' cesses—all these taken together will not leave a very high revenue for Government than that which the Government is getting now.

Q. 6. After the Permanent Settlement the zamindars had to be too eager to increase their revenue in order to pay the exhorbitant demand of public revenue fixed upon them. They could not wait for the increase of population to help them in reclaiming the waste lands. They had to spend much labour and money and the tenants had to lend their labour to reclaim the waste lands. Gradual increase of population helped in letting out newly reclaimed lands at a higher rate of rent offered on competition.

Q. 7. The increase of tenants' assets are due to (*a*) reclamation of waste and patit lands, (*b*) with the gradual increase of price of agricultural produce the lands were let out at a much higher rate of rent than it was at the time of the Permanent Settlement, and (*c*) increment of rent of all grades of tenants under sections 52 and 30 of the Bengal Tenancy Act, but it is not possible for us to say how much has been increased under each head.

Q. 8. At the time of Permanent Settlement, it cannot be said that the Government showed any generous treatment towards the zamindars. Almost the whole of the assets from tenants was appropriated for Government revenue leaving a very low margin of profit to the zamindars. They could not and perhaps did not increase the rent of the tenancies existing at the time of Permanent Settlement. As regards rate of rent of tenants certainly they were more generous to their tenants than the Government had been to the zamindars. As a matter of experience and

common knowledge big zamindars very seldom took resort to increasing the rent of raiyats under the provisions of the Bengal Tenancy Act. Tenureholders having smaller areas under their charge increased the rate of rent of tenants under the provisions of law. But the conduct of zamindars and landlords have always been generous to their tenants. It will transpire from the statistics supplied to us that the income of tenants from produce of land in Bengal, is much higher than in any other province in India and excepting the province of Orissa (which was of late a part of Bengal) the rate of revenue of land in Bengal is much lower than that of any other province of India and in Bengal on the other hand the rate of rent of land of tenants under the permanently settled estates is much lower than the rate of rent existing in the temporary settled areas, whereas the rate of rent prevailing in the Government khas mahal is much higher than the rate of rent existing either in the permanently settled area or in the temporary settled area. The zamindars and tenureholders showed much more generous conduct towards their tenants than the Government did to their tenants, where Government is the zamindar as well. As regards the realisation of rent, the zamindars and tenureholders are much more lenient than the Government are towards their tenants in the khas mahals. There is much more cordial relationship even now existing between the private landlords and their tenants but as regards Government khas mahals practically there is no such relationship at all. The collecting officers in Government khas mahals pay very little care to the welfare of the tenants. The khas mahal tenants practically get none to approach to for the remedy of any troubles they are put in. In times of troubles, tenants in the permanently settled areas get loans and substantial help from their landlords. The lands of the original tenants of the Government khas mahals have been sold away in certificate sales to a far greater extent than it has been done in the permanently settled area.

Q. 9. We have already replied that the present profitable position of the zamindaris came out of the exertions made and capital invested by the zamindar with the help of their tenants. The terms of the Permanent Settlement are clear and it appears that no other specific duties were imposed upon the zamindars. But keeping consistency with their traditional duties they did enough towards construction of roads, excavation of tanks, establishment of schools and dispensaries, establishing religious temples and maintaining them, and helping in every way by acts of public utility. The name of charitable zamindars of old days such as Rani Swarnamayee, Rani Bhabani, Mahammad Mohsin, &c., are still remembered with respect. Instances are not wanting that charitable zamindars such as Maharaja Manindra Chandra Nandy and others spent the whole of their princely income towards charity and incurred very heavy debts for the purpose. From the time

of the old Hindu Rajas down to the time of the first part of the British administration the relationship between the zamindars and tenants was very intimate and cordial. Zamindars lived in simple style and felt proud in spending the whole of their income towards the good of the people. It is only after the spread of English education in this country and the desire for imitation of European mode of living, that the zamindars were not so freely accessible to their tenants and the zamindars began to think of their income in a business-like way.

With the increase of international trade in the country from some 50 years ago the price of agricultural produce began to rise higher up. The standard of living of people was raised to an extent never known in the history of the country. With the rise of price of paddy and standard of living, every section of the community raised the price of their labour and industry. Zamindars could not and did not raise their income. They could not cope with the situation unless their income was proportionately increased, and having regard to their prestige and position in life, they began to be involved in debts to maintain their former style of living and ceremonial functions, till they found that it was not possible for them to live in their native villages maintaining their former position in life and chose to live in towns and other places away from their tenants and society. There are, no doubt, cases where some zamindars chose more comfortable town life where better education and medical help were available for their family and children. Many new persons carrying on trade and business in big towns began to purchase zamindaris of old zamindar families, and necessarily they had to be absentee zamindars. The result was that the tenants became out of touch with the zamindars and in some cases oppressions were made by officers upon the tenants. This was the state of things some years ago but nowadays it is unthinkable, except in very rare cases, that any officers of zamindars can with impunity oppress upon the tenants. The tenants have generally got the upper hand nowadays and payment of legal rent and cesses is to some extent at the mercy of the tenants. The greatest evil, which we find in the absenteeism of the zamindars, is that it has given scope for spread of communism amongst their tenants by irresponsible political parties and agitators, who are more keen to their selfish interest than any real good to the country. These agitators impress upon the tenants imaginary causes of grievances which they themselves cannot appreciate.

Q. 10. Permanent Settlement when made was no doubt made to the interest of the State and to the benefit of the country and it had resulted in the more prosperous conditions of Bengal (including Orissa) than that of all the remaining provinces of India. The statistics supplied to us will themselves bear it out as noted in our answer to question 8. Rate of rent of tenants of Bengal is much lower than

that of the tenants of all other provinces. The income of land is also much higher. The Permanent Settlement gave scope to the creation of large number of middlemen who are the backbone of the society in knowledge, education, culture, arts and industries. The proportion of profits of landlords and tenants as given in Statement No. X, speaks very favourably for tenants. Overpopulation in East Bengal and southern Bengal has caused too many divisions of raiyats' holdings and most families do not own as much quantity of land as is required for their maintenance. In such cases further reduction of rent or even making their holdings rent free cannot give them any relief so long they do not get the minimum quantity of land sufficient to maintain their families.

In some parts of Bengal, such as portions of the districts Jessore, Nadia and 24-Parganas, depopulation has added greatly to the cause of the poverty of the agriculturists. Lands, which up to some 100 years back, were good paddy lands have gradually been raised to much higher levels unfit for paddy cultivation and agriculturists are growing poorer there for want of sufficient paddy lands. Different causes such as want of means to convert those land to horticultural purposes and silting up of rivers had affected agriculturists in different localities. State took little or no notice of these facts and did very little to improve the position of the agriculturists. In this district the condition of the tenants in the temporary settled estates and Government khas mahals are far worse than that of the tenants in the permanently settled estates. Had there been no Permanent Settlement, the condition of the tenants would have been equally worse as in temporary settled estates and Government khas mahals.

Q. 11. (*i*) The accusation is malicious and untrue. Landlords will be too glad to get 20 per cent. of the income from land and will challenge the agitators to come to a compromise on that basis. The Statement No. X shows that landlords get only 9 per cent. of the income of land. The rate of rent in this district in permanently settled area varies from Rs. 3 to Re. 1 in most cases. C. S. parchas and allotment papers of estates Nos. 67, 124, etc., and of many other old zamindaris will verify our above statement. Rate of rents of tenants under tenureholders is of course generally higher than the rate of rent of tenants under zamindaris, but even that rate of rent due to tenureholders are much less than the rates of rent existing in other provinces and even in this province in temporarily settled estates and Government khas mahals.

(*ii*) We cannot subscribe that Permanent Settlement is the only cause of subinfeudation. Before the Permanent Settlement there were such subinfeudation. From quinquennial papers it will appear that

there were many tenureholders under the zamindars at the time. Even temporarily settled areas, where by the terms of lease farmers are prohibited from creating middle interest, they as a matter of fact, create such tenures as will appear from settlement records. Subinfeudation owes its origin to the cause that it is not humanly possible for big zamindars and tenureholders to bring all the waste lands in their zamindaris and tenures under cultivation at their own expense. Knowing full well that the rent fetched by the creation of such tenures brings them lower rent than that of cultivating raiyats, they prefer to do it in order to bring the waste lands under cultivation at the cost of others. Government also make temporary settlement of waste and jungle lands with farmers, with provisions for malikana to them, with the object of avoiding heavy costs to bring the waste lands under cultivation at the cost of the Government. Unless these big areas of waste lands were reclaimed at the cost of these men, no cultivating tenants could undertake to cultivate a small portion within the area by damming khals and erecting embankments. After these farmers and tenureholders bring the waste lands under cultivation at heavy costs, and induct tenants on the land at a higher rate of rent, critics then come forward with the complaint that they are parasites and they enjoy a considerable portion of the produce of the land which might have been diverted to some other useful purpose of the society. It is a common knowledge that many persons have been ruined altogether after incurring heavy costs and debts in failing to reclaim the land demised to them. Whatever it may be, the tenants can have no cause of grievance against this class of middlemen. Tenants only pay the rent to these tenureholders which they othewise had to pay to the zamindars or the Government. It is common knowledge that cultivating raiyats much prefer to hold lands under these class of tenureholders than under big and influential zamindars and Government. Many zamindars under necessity are compelled to create patni tenures over portions of their zamindaris in some cases to save the entire estates from ruin; in other cases for facility of collection of rents at a less collection charge and such other causes. By creation of tenures and under-tenants, the income of the cultivating tenants have not in any way been impaired. The income has been carved out of the profits of the zamindars. These tenureholders have in turn contributed much to the welfare of the tenants and the society, in the same way as the zamindars have done.

(*iii*) This complaint does not find its footing simply on the fact that the rate of rent of raiyats is much lower than that of tenants within the temporary settled estates or Government khas mahals.

(*iv*) This criticism is of recent origin by political agitators. It is not the complaint of real cultivators. In some cases landlords were no doubt oppressive and in most cases they were very lenient to their

tenants. Advance of money in time of necessity, rendering necessary help at the time of trouble and distress, leniency in the mode of realisation of rent—all these factors have created a good deal of respect of tenants for their landlords. The complaint of overlordship of landlords over their tenants, is nowadays, a ridiculous one. Constant agitation by political leaders has made it difficult for the landlords to realise their just dues, far less to exercise any act of overlordship.

Q. 12. There is no case for the abolition of Permanent Settlement on any of the causes enumerated in question 11.

Q. 13. (*i*) No doubt at present there is a good margin of profit to the landholding classes collectively. But the condition varies with different estates in different areas. In those districts where large areas were water-logged at the time of the Permanent Settlement, the revenue of those estates in those districts is much less in consideration of the rent realisable from tenants. On the other hand in those districts or portions of them where the lands were mostly culturable at the time of the Permanent Settlement, the margin of profit is not considerable. Whatever it may be we do not think that the margin of profit of the landlords is at present 75 per cent. Landlords are to pay road and public works cesses at the rate of 1 anna, i.e., 1/16th of their net profit. They are to pay collection charges and incur costs of embankments and damming khals. They are to incur heavy costs of litigation for realisation of rent, considerable portion of which is out of court and is not incorporated in the decree. They are to pay generous contributions for acts of public utility. Many of the present zamindars owned their estates by purchase, by investing large sums of money which would have fetched considerable income if they were otherwise invested in Government securities or deposited in banks. If these matters be considered it does not appear how 75 per cent. of the rents of the tenants go to the landholding classes. If the estates and tenures be purchased by the Government, Government will have to spend an enormously heavy amount, for the collection expenses of Government would be much higher than that of the zamindars. There will be loss of cesses, which are now realised from landholders, and other contributions in various shapes. We apprehend there will be very little actual increase of revenue of the Government by such purchase.

(*ii*) By the cancellation of the Permanent Settlement and substitution of temporary settlement in its place, matters will not improve. Things will be left where they were before the Permanent Settlement and the condition of the tenants will be much worse. As a matter of fact by periodical revision of rents of tenants their rate of rent will inevitably be increased. The rate of rent of tenants of the rest of the provinces will justify our observations. Abolition of Permanent

Settlement would be better than substitution of the system by temporary settlement.

(*iii*) We are strongly against the proposal of levying income-tax upon zamindars' agricultural income. The position of the landholding classes has already been precarious. Much is being talked of nowadays about the indebtedness of the agriculturist but nothing is said of the indebtedness of the landholding classes. The landholding classes are overburdened with debts. It is high time for an enquiry about the cause of their indebtedness. Indirectly, in violation of the terms of the Permanent Settlement the landlords are to pay road and public works cesses out of their profits. There is a Bill in the Legislative Assembly for payment of education cess. Further imposition of income-tax upon the landlords' agricultural income will be the last straw on the camel's back. If the system is to be retained, the zamindars should not be saddled with further taxes and provision should be made for relieving them of their liability of collection of road and public works cesses and education cess, etc., from their tenants. If they are considered as an evil to the society, the system should be altogether abolished and their interest should be purchased by the State at an adequate price.

Q. 14. If the abolition of the Permanent Settlement be deemed preferable, the zamindars should get proper compensation. In many cases the money paid at the time of the purchase of zamindaris and the money spent for redemption of encumbrances thereupon will be a good criterion. It is desirable that they should be paid in cash. In many cases they will have to pay the mortgage debts on the estates incurred by them. The maximum value may be suggested at 25 times the nett profit. In many cases the value will be less. It is not possible to give a definite standard for all cases. Most of the zamindars are overburdened with debts by mortgaging their estates, and if they do not get cash price for their estates, they will be troubled by the creditors and Government will have to purchase the estates and tenures subject to encumbrances bringing in a social revolution in the country. It is not possible for us to make an estimate of the total sum which will be required by the Government to pay up the interest of the different landholding classes.

Q. 15. If bonds be given for the price of the lands purchased it will be a great hardship in many cases as we have pointed out in our reply to the previous question. The bonds should be redeemable, say, within 15 or 20 years. The rate of interest will be ascertained in consideration of the profits. The landlords will have to lose.

Q. 16. A very large number of village disputes are even now settled by the zamindars and their agents. The tenants will have to resort to law courts for decision of such disputes—litigation costs will be inconceivably increased.

A very large number of people having moderate or little education now serving under the landlords will be out of employment and comparatively a very small number with much higher pay will have to be employed by the Government in their places.

Peace and order in the villages will be at stake. The tenants now holding under the landholders will have necessarily some sort of grudge against persons to whom they are liable to pay. This grudge will be diverted from the landholding community to the Government themselves and there will be a very good field for the political agitators to rouse the masses against the Government. In fact we apprehend that this is the guiding motive of the Congress agitators nowadays and the Proja party agitators perhaps have taken up the programme to show to their constituents that they do not stand behind the Congress party in this matter.

Constant fighting will continue amongst masses with nobody to check them.

Tenants, from time immemorial, unaccustomed to pay rent at a stipulated period, will fail to pay and their holdings will be sold away in large numbers. During a century and a half after the Permanent Settlement, the society has come to a settled state. An utter chaos will follow the abolition of the Permanent Settlement.

Q. 17. If the Permanent Settlement be abolished, there seems no necessity for retaining middle interests. In that case the interest of the middlemen should also be purchased by the State and the raiyats should come directly under the Government. We have already pointed out that this system will create a revolution in society and great chaos will follow. The masses will be easily under the influence of political agitators and unreasonable agitations and troubles will be the course of the day.

Q. 19. We are definitely of opinion that the raiyats, to speak generally, are no party to the agitations for abolition of the Permanent Settlement. Our recent enquires in the matter prompts us to give the reply. They will abhor the idea of paying rent directly to the Government. Tenants generally are not accustomed to pay their rent kist by kist. In many estates, even now, interest is not realised for arrears of rent. Landlords generally bring rent suits when the claim of rent goes to be time barred. Even in many cases, landlords abstain from suing them after getting a bond for the portion of rent which was going to be time barred. They get easy loans in times of distress. They get easy access to their landlords for any relief. They will be deprived of all these advantages if they are placed direct under the Government. They are political agitators who are pushing on the agitation in the names of the tenants but the actual raiyats are really far away in the fields and even ignorant as to what is happening on

the floors of the Council. The khas mahal raiyats are in a far more disadvantageous position in the above mentioned matter than the raiyats of the permanently settled or temporarily settled estates.

Q. 20. We have already replied to this question in connection with our reply to question 11. There was subinfeudation from before the Permanent Settlement. Of course, the Permanent Settlement has given a further push to the system.

We do not think that the creation of tenures has, in any way, affected the position of the raiyats. The raiyats get easier access to and help from this class of landlords.

Q. 21. The purchase of the tenures by the State will create similar situation in the country as we have enumerated in our reply to question 11.

Q. 22. As regards their khas lands and homesteads they will be considered as raiyats under the Government. Assessment of rent will have to be made at a lenient rate of rent keeping in view the fact that they will have to cultivate their khas lands through others and cannot pay the same rate of rent paid by actual cultivators of soil.

Their rent will be in proportion to the rent they previously paid for the lands of the parent estate. The criterion of ascertaining their khas land will be what land they occupied in khas possession, by constructing homesteads, by horticulture, by cultivating through hired servants or bargadars and by making Gula Settlement for consumption of paddy for family purposes.

Q. 23. We are of opinion that the occupancy interest of raiyats is a creation of British legislation. Nothing can be traced from history or records that it existed before, except that khudkasht raiyats had substantial interest in their land.

Q. 24. Nothing can be traced from previous history or records that the cultivating raiyats ever had been the proprietors of the soil in the sense we understand it now and the rent paid by them was something like a tax to the sovereign power. The king was always the proprietor of the soil. In Muhammadan times, the Emperors granted jaigirs and zamindari rights to reward officers and other persons for meritorious services done to the State.

Q. 25. We are of opinion that occupancy right should be limited only to one grade of tenants, i.e., raiyats only, as was provided in the Tenancy Act of 1885 and it should not be extended to under-raiyats. It should not be confined to actual cultivators of the soil only but also to non-agriculturists holding homestead lands and lands for commercial, manufacturing and horticultural purposes.

Q. 26. Our view, as enumerated above, if accepted, will give sufficient protection to raiyats partly cultivating their lands themselves and

partly subletting their lands to under-raiyats and also to raiyats who have wholly sublet their lands to under-raiyats.

Q. 27. It does not appear that the intention of the Permanent Settlement was to give protection to the agriculturist tenants only. We are in favour of extending the right of occupancy to non-agriculturist tenants holding lands as homesteads and for horticultural, industrial and manufacturing purposes.

Q. 28. We are of opinion that statutory rights given to protect the interest of cultivating raiyats should persist in the land, even after it has been used for non-agricultural purposes such as homesteads or industrial and manufacturing purposes. The rent should be on the basis of the rent of cultivating raiyats and there should be no other tax for the land itself.

Q. 29. Number is on the increase.

Q. 30. The reasons given in the questionnaire are true. Over and above those we may enumerate the following reasons:—

(1) Owing to gradual subdivisions of original holdings by successive heirs of original tenants, their heirs do not get land sufficient to maintain their families. For purchase of cattle and many other domestic troubles and necessities, which hit hard upon those who have but a small quantity of land and consequently no surplus money in hand, these people find no other alternative to raise money but to sell their lands to neighbouring well-to-do cultivators and then cultivate the land in barga under them. In this way some well-to-do cultivators and creditor raiyats are every year purchasing more and more lands of the indigent cultivators and becoming big farmers—while the poor cultivators are being turned into bargadars. It is a curious fact in this district that in Government khas mahals and temporary settled estates many cultivators at money rent prefer to be bargadars.

(2) Spread of education amongst the agriculturist class is another cause. Those who get some sort of education consider themselves a superior class in comparison with their illiterate neighbours and do not like to take to cultivation as their forefathers did. They let out their lands in barga to those illiterate cultivators who are in need of lands.

(3) Demand for barga land is gradually increasing in some quarters, specially in the temporary settled areas; and the demand for barga land is growing so great that in some areas bargadars pay some salami over and above half of the paddy and the entire straw on the land.

Q. 31. Some raiyats and under-raiyats, who have not sufficient lands at *nagda* rent for their occupation and maintenance, cultivate other lands in barga. The number of such raiyats and under-raiyats is considerable.

Q. 32. We do not think that occupancy right should be extended to bargadars. The economic position of people cannot be improved merely by legislation. Landless cultivating class and those raiyats who hold insufficient lands of their own will be hard hit if occupancy right be extended to bargadars. In that case they will be deprived of the little advantage they now enjoy. Those who have surplus land, which are now being let out to bargadars, will get their khas lands cultivated by the very same persons on pay system as servants. It will be then shown in Government statistics that the number of bargadars has decreased but really those men who used to cultivate land on barga system would be turned into these temporary servants getting smaller remuneration than they got as bargadars. So long as there is paucity of land for people, barga system of cultivation is of course a necessary evil. The prevention of its extension by provisions of legislation will have its counter action in another way.

Q. 33. Bengal is a pre-eminently agricultural province All cultivating classes want land for their maintenance. The bhadralok classes and landholders also want paddy land for family consumption. In fact excepting a very small number of families, bhadralok classes and landlords own paddy lands for their family consumption, however high their position in other spheres of life.

Q. 34. Practically this is the established custom throughout the country. If the extension of the barga system be tried to be checked, it can be done but that will bring in more miseries upon the landless cultivating classes. Nor their position can be improved by making non-alienation of agricultural lands to non-agriculturists or by putting a restriction upon raiyats not to acquire more than a certain quantity of land as is being attempted by a bill in the Bengal Legislative Assembly. Rich farmers are growing up in all cultivating villages who are acquiring all the lands of the poorer cultivators by khas kabala or purchase in execution of decrees on loan in courts. When the poorer people are required to sell small portions of their lands under necessity they do not get intending purchasers from outside. They will have to sell their lands to those village farmers only, at any price they offer; and these village farmers in order to avoid the restrictions put by the Legislature as to the quantity of land, will only make their sons and nephews separate from them after erecting separate houses for them and purchase the lands in their names for whom they themselves were really interested to acquire the lands. In our opinion no artificial measures should be taken to decrease the number of the bargadars. There are vast tracts of jungli lands in the Sunderbans in this district which fetched considerable revenue to the Government and if the Government really intend to find some avenue for the landless class, these lands may be settled for cultivation and then in natural

course the number of bargadars will decrease within some time. If protection be given to bargadars by legislation, landlords and other people holding khas lands will certainly cultivate their lands by servants and a large number of bargadars will be thrown out of employment.

Q. 35. From time immemorial half the produce of the land is being paid to the owner of the land and the other half appropriated by the bargadars. This has been the settled custom. In those areas where population is increasing, demands for land are also increasing there. In certain quarters in this district there is much competition for available barga lands and they induce the owners of land to make the *barga* settlement after paying Rs. 2 or 3 as *nazar* in cash for each bigha of land. We do not think this can be checked by legislation as corruption amongst Government servants could not be wholly stopped although there is the stringent provision of law against such corruption. It is a question of demand and supply. Where demand is greater the share of the produce for the owners of lands will be higher, on the other hand where the demand is less, and available land for letting out is large, landowners must compete amongst themselves for getting labourers at a considerably smaller share of the produce for their share. We are not in favour of fixing a maximum share of produce to be given by bargadars to the owners of lands.

Q. 36. The wages of agricultural labourers vary with seasons in different localities, thickly or thinly populated. At the plantation season, say from asharh to first week of bhadra and in the reaping season in pous, demand for labourers increase and in other months of the year there is little demand and some times no demand at all, so to say.

The wages vary from 3 annas to 6½ annas excluding food. In most cases bargadars' remuneration is more charming than that of the ordinary day labourer. Under-raiyats' position is much better, some times equal to that of the agricultural raiyats.

Q. 37. The power of unrestricted alienation given to raiyats by the Act of 1929 has led to some extent to the passing of raiyati holdings to non-agriculturists. Further facility given by Act of 1938 has increased this tendency to a great extent. The present tendency of the political parties in the Legislative Councils seems to be, over-anxiety for effecting the welfare of the cultivating classes and this over-zeal led them to pass legislations too hastily and without proper enquiry and materials. If protection were needed for preservation of raiyati holdings in their own hands it was better served by the provisions of Act VIII of 1885 when raiyati lands were non-transferable by private sale or money sale in court.

In spite of the provisions, private sales by raiyats fetched much higher value, than that fetched nowadays when there is absolutely no restriction for sale or purchase. Statistics, if taken from Registration Offices as to the value of lands, will show that the price of lands before 1929 was much higher than the price fetched nowadays. So it cannot be argued that under the law of non-transferability the tenants could not get proper price for their lands sold. Theoretically it is sound that private sales under the law of non-transferability brings lower price but to all practical purposes it is seen that it makes no difference in price. We think the provisions of Acts of 1929 and 1938 will do more harm to the cultivators than good. We are in favour of amending the Act again and making the raiyati holding non-transferable. It is practically no boon once given and subsequently withdrawn but restoration of a substantial right once given but subsequently wrongly withdrawn. Restriction on transfer of agricultural lands to non-agriculturists is an impractical thing. It will bring down the price of lands abnormally low bringing untold miseries to the sellers. The intending sellers will get only a very few farmers of the village, probable candidates for purchase of their land who will combine amongst themselves to dictate any low price they choose. Restriction on quantity of land to be held by farmers can easily be avoided by such devices as has been suggested in our reply to question 33 and other like devices.

Q. 38. Our knowledge is that one man and one plough can cultivate 15 standard bighas to the utmost; in some areas according to circumstances much less.

Q. 39. It is exactly so.

Q. 40. Consolidation of holdings is desirable but we do not think it practicable without bringing in a revolutionary change.

Q. 41. Local knowledge of state of things will prompt us to reply that it is not practical. The different plots of land included in a holding, in many cases, lie here and there. The adjoining plots belong to different persons of different localities. Right of pre-emption may in some cases help consolidation to a certain extent.

Q. 42. Accumulation of large areas in one particular hand is undesirable. But prevention of it by legislation will discredit the dictum of survival of the fittest and will bring in many necessary evils. There are many agricultural villages where there are only a few probable purchasers. Restriction of purchases to them will bring down the prices of lands causing considerable mischief to the sellers.

Q. 43. Coparcenary is no doubt detrimental to good cultivation but this cannot be remedied without changing the laws of inheritance which should not be done.

Q. 44. The provision for appointment of common managers under the Bengal Tenancy Act is useful for the purpose. The law may be made more liberal but practical experience shows that management of estates and tenures by common managers acting under the District Judge is most unsatisfactory. Practically no body is responsible for the management.

Q. 45. We think legislative compulsion on the whole is undesirable though in some cases it may be useful.

Q. 46. It seems to us from the tenor of the Permanent Settlement and subsequent Regulations that one of the means contemplated for the landlords to increase their profits in order to cope with the exorbitant revenue assessed upon the estates was the increase of the rate of rent of the tenants.

Q. 47. As far as we can gather facts from history of the Permanent Settlement, it seems to us that the framers of the Permanent Settlement did not contemplate permanency or fixity of rents of tenants coming into existence after the Permanent Settlement. Before the Permanent Settlement there was a class of tenants who had hereditary right in the land occupied by them. As we observed beforehand, the terms of the Permanent Settlement did not define or touch the rights and liabilities of the tenants nor was there any necessity for it. They were left where they were. The revenue assessed was so high that the zamindars and taluqdars could by no means cope with the situation unless they might increase their revenue immediately. Later Regulations empowered the zamindars clearly to demand any rent they choose from their tenants and to eject the latter in case they failed to comply. Income from reclamation of waste lands and water-logged lands necessarily required long time and as a matter of fact very large tracts of waste lands have been reclaimed within the last 80 years or so.

The framers of the Permanent Settlement must have thought of increment of rent of tenants as an immediate means in order to make zamindars and taluqdars able to cope with the difficult situation.

Q. 48. (*a*), (*b*) and (*c*) By the terms of the Permanent Settlement or subsequent Regulations or Acts or declarations of the authorities who were concerned with the Permanent Settlement, it does nowhere appear that the intention of the framers of the Permanent Settlement was that the rents of the tenants should remain fixed in perpetuity, on the contrary it shows that the intention was the reverse.

(*d*) By those provisions of the Bengal Tenancy it may be argued that the rent of the class of tenants, referred to therein, were meant to remain fixed in perpetuity but there is no authority to justify this view.

(*e*) This argument seems to have no great force in the face of our answers given above. The framers of the Permanent Settlement showed the zamindars their future source of income in the rents they might realise from tenants.

Q. 49. There is nothing to ascertain what the prevailing rate of rent was at the time of the Permanent Settlement at such a distant date, nor can it be ascertained which of the present tenants are the successors of the tenants existing at the time of the Permanent Settlement; consequently there is no case for reducing the rents of those tenants. It is common knowledge that the rent of tenants under old zamindaris is generally much lower than the rent of tenants in land reclaimed in recent times. We do not know what are the grievances of the tenants as regards their amount of rent of old tenancies. Probably there can be none. In old times when the price of paddy was very low, very small rate of rent used to be assessed on land. But it is our knowledge that some parts of districts of Jessore, Nadia and 24-Parganas, where formerly paddy grew well, have now become barren, which would be the case for all paddy lands in course of time, and the former rate of rent cannot be paid or realised at present. A large number of holdings are being sold away in rent sales and can not be re-settled. On the other hand there are old tenancies in old zamindaris bearing only a ridiculous rent. There was no system of creation of kabuliyats and pattas for creation of raiyats' holdings even some fifty years before. It was done orally. Loans were advanced to tenants but there were no documents for them. Rent roll of old tenancies shows the rent of tenants at certain amount for certain number of bighas. Now it transpires that much bigger quantities of lands are included in the holdings. Alteration of rent under section 52 of the Bengal Tenancy Act is a very difficult proceeding in such cases. The result is that this class of tenants holding old tenancies are holding 3/4/5 bighas of land at a rupee. This will be corroborated from settlement parchas and allotment papers of estates, created by Estates Partition Act, of many estates. In such cases, provision should be made for assessment of rent per bigha to protect the landlords and in those areas where the productive powers of lands are deteriorating, provisions should be made for reduction of rent to protect the tenants. Bengal is as big as a big European country. Circumstances vary differently as regards lands of the same thana. If a thanawari fair rent be calculated by Civil Courts at intervals, we think many intricate questions may be solved thereby and a good basis of fair rent may be arrived at.

Q. 50. As we are of opinion that it was not the intention of the Permanent Settlement Regulation that the rent of raiyats should remain unalterable, there was no mistake on the part of the Government to provide in all tenancy legislations for enhancement of rent on the

ground of rise of prices of staple food crops. The absence of the provision would have been most inequitable and hard to the landlords. As we have pointed out before, with the rise of price of staple food crops the standard of living rises in society and if the landlords do not get any benefit of it but only the attending evil of heavier cost of living arising out of it, they cannot cope with the situation.

Q. 51. We find no trace of any pargana rate in practical field although we get the mention of the term in legislations. It was not the intention of the framers of the Permanent Settlement that the rate of rent of the subsequently reclaimed lands would be restricted. The intention seems to be reverse as can be studied from the provisions of the Regulation 1 of 1793 itself and subsequent Regulations.

Q. 52. We think a fair portion, say 1/5th of the produce of the land, may be considered the fair and equitable rent for land. In that case poorer lands will pay less and richer lands will pay more rent.

Q. 53. We think that no fixed principle is followed in assessment of rent. But it is a fact that tenants generally do not agree to pay higher rent than what is prevalent in the neighbouring areas although they may agree to pay higher salami. At the time of first settlement of lands of a mauza the rate of rent is in almost all the cases the same. Subsequent increment of rent of particular holdings or re-settlement of others after making them khas to fetch higher rents, make difference in rates of rent of tenants within the same village. Tenants of course agree to pay higher rent for lands of better quality that those of inferior quality.

Q. 54. We have no such experience that the poorer tenants pay higher rate of rent. Our answer to the previous question will also apply to the present question.

Q. 55. We think a uniform basis may be adopted throughout the province if the basis be a certain portion of the produce as rent. A fresh record-of-rights should then be prepared.

Q. 56. We should propose 1/5th of the produce of land or its equivalent in cash. But it will reduce the Government revenue in some cases where the quality of the lands have greatly deteriorated.

Q. 57. We do not think that the rent of raiyats should be fixed in perpetuity. That will be against the interest of tenants in some cases and in others against the interest of the landlords.

Q. 58. We are against the imposition of income-tax in place of rent. If incomes below a certain figure were exempted, many holdings will escape payment. The troubles will be various. In practical field the income of tenants below the figure will be assessed, assuming that

they have income above the figure, as is actually being done nowadays in cases of other classes of assessment and many tenants who have their income above the figure will split up their families to avoid taxation.

Q. 59. The provision of section 7 of the Bengal Tenancy Act is faulty. In no case whatever, evidence of customery rate can be proved, as there is none. So the provision has no practical value. Increase of rent of tenureholders should be made on the basis of rent paid by similar tenureholders of the locality.

Discretion to the court has been given in the matter of increment of rent under section 30, Bengal Tenancy Act, after the rate of increment has been found out by comparison of the different periods. This discretion is being exercised very carelessly and differently by different courts in the same place and also differently in different cases by the same court, giving rise to many appeals and litigations therefor. Provision should be made for more definite rules.

In ascertaining prevailing rate of rent under section 31, Bengal Tenancy Act, the procedure to be followed is too costly. Both the tenants and landlords are affected by the heavy costs incurred therefor. Simpler mode of investigation should be found out.

Q. 60. Both landlords and tenants should get the benefit of the result of fluvial action, given by nature. It is not the result of any exertion made by tenants. They cannot demand the whole benefit arising out of it. Moreover, it will be a denial of the landlords' proprietary right if whole of the benefit be given to the tenants.

Q. 61. Enhancement of rent on account of rise in prices should not be denied to landlords. Such denial would curtail the economic equilibrium in society.

Q. 62. Such a restriction is neither fair nor practicable. It will be an intricate question of fact in each particular case too difficult to decide, and many tenants, otherwise not entitled to come under the restriction, will take up the plea and a disorder will be created between the tenants and the landlords.

Q. 63. Such reductions will result in great disorder and hardship in many cases. There are some estates and tenures whose revenue and rent is much higher than the revenue and rents of neighbouring estates and tenures. If the tenants' rent be brought to the same level, the former class of proprietors and tenureholders cannot cope with the situation. As a matter of fact tenures created in modern times bear much higher rent than those created in old days and bringing less margin of profit to the tenureholders. If the tenants' rent be reduced in those areas, the tenureholders' position would be too

precarious. In any case corresponding provision for enhancement by landlords should be made in consideration of the improvements made by them.

We cannot think how salami can be considered as rent.

Q. 64. This is a question of demand and supply. If legislative restrictions be put upon the rate of rent on contract, when there are greater and greater demands for land by cultivators nowadays, the inevitable result will be that landlords will be tempted to let out their lands in barga system or cultivate the same in khas, instead of letting them out to tenants at money rent. Our proposed scheme of rent, i.e., 1/5th of the produce, is a sufficient protection to the tenants.

Q. 65. Nothing seems unfair in permanently settled areas. As regards temporarily settled estates the rate of rent is often fixed arbitrarily.

Q. 67. We believe in every revision of revenue matters, may it be rent, cesses or income-tax, the guiding motive of the Revenue Officers, nowadays in anyhow to increase the revenue of the State.

Q. 68. The revenue of many temporarily settled estates in this district was abnormally increased during the last settlement. Statistics, if taken from the Collectorate, will verify the fact.

Q. 69. If it has been done, it has no doubt been a wrong done by the Government.

Q. 70. We think the rate varies with the question of greater or less demand of lands in different districts.

Q. 71. We have not heard of any remissions for permanently-settled estates however great may be the calamity. The remission made in temporary settled estates is also poor. We think the disposition of the Revenue Officers is responsible for it. Framing of more liberal rules and impressing upon the Revenue Officers of the duty to be observed by them may be useful.

Q. 72. The average yield of paddy in this district may be taken at 21 maunds per acre and the cost of cultivation at Rs. 12 per acre including the labour of the cultivators.

Q. 73. The productivity of the soil in this district is deteriorating to some extent as every soil must deteriorate by its continuous cultivation for a long period without being properly manured. In this district there is absolutely no custom of manuring agricultural land. Nothing practical has been done by the Government to improve the fertility of the soil or in supplying manures and seed grains to the cultivators.

Q. 74. We know of no practical application of the Acts in this district.

Q. 76. Government realise salami from tenants at the time of first settlement in khas mahals. Government spend practically very little for improvement of khas mahal lands.

Q. 77. In our opinion the general policy of the Government or the land system of Bengal is not so much responsible for the present uneconomic condition of the raiyats as over-population, want of fresh avenue of employment, depopulation in certain areas, deterioration in the fertility of land in certain areas and want of land in certain quarters. Had we found the economic condition of the landholding classes much better, we might have ascribed some fault to the land system of Bengal. As a matter of fact the position of the landholding classes, in most cases, is far worse. Khulna is a paddy producing district. There are scarcely any waste lands nowadays. Population is increasing every year and this ever increasing population has no other avenue than to cultivate the same land which was being cultivated so long by a comparatively much smaller number of cultivators. Reduction of their debts under the provisions of the Bengal Agricultural Debtors Act or reduction of their rent in certain areas may no doubt give some temporary relief to some cultivators but these cannot cure the disease altogether. They will certainly again incur fresh debts and fail to pay their rents and lose the lands they have. Unless a practical scheme of improving their income be adopted, patchwork of temporary relief will be of no avail. In Assam we understand vast tracts of land are still unreclaimed. Fresh colonies may be opened there and some other parts of this province for cultivators, who have practically no lands in their native villages. They do not know, however, if lands are available elsewhere. A large number of cultivators have colonised in Assam from the Mymensingh district. Considerable number of cultivators have colonised in the districts of Nadia and 24-Parganas from Barisal and Dacca and these people are now far better off. Fresh avenue of cultivation or industry must be found out. Otherwise they cannot be saved merely by some legislation in their favour, curtailing the rights of others.

Q. 80. The suggestions are all useful. We would add:

(1) Fresh colonisation scheme should be adopted.
(2) Government forest lands in the sea bordering districts should be let out for cultivation.
(3) Active propaganda to make them understand to live within their means.
(4) Excessive and ever increasing costs imposed for litigations ultimately payable by cultivators and increase of registration costs are other causes of the poverty of the raiyats.

Q. 81. Pressure of population undoubtedly is the principal cause of the poverty of the agriculturists in Bengal and their adopting higher

standard of life incommensurate with their poor income. We often find that there are a good many number of males in one family having land only for sufficient engagement of a single man. But as they have no other occupation whatsoever all of them work in that land only and thus they are becoming indolent for hard work. What percentage of population is surplus cannot be ascertained without a survey of the situation. Every member of a family requires the produce of a certain quantity of land for his maintenance, according to the condition of the soil in different localities. It is not a very difficult task to have a survey of the situation on this basis.

Q. 83. We do not think there are any efficient organisations at present for improvement of agricultural credit. It appears from official reports only that the co-operative societies are doing much good work towards this direction, but in actual field they may be considered negligible agencies.

Q. 84. The higher rate of interest has already been stopped. But for those who have not the minimum income required to live upon the real remedy lies in the finding out of ways and means to improve their income. So that they may not be ordinarily required to go to the mahajans. It is not practicable to ascertain what portion of their income goes to the mahajans as interest without a careful survey of the situation.

Q. 85. Co-operative credit societies though highly spoken of in official reports have done very little good to the agriculturists. A certain number of persons are required to join in the bond and contract a joint debt. Poor cultivators, who need money individually and cannot find out other persons to join with them in the bond, find no scope for getting any loan from the societies. Only some leading persons can get loan. The rate of interest also is not so low. The system of enforcement of payment of the debt within a year, is often met with a devise of change of documents for the debts incurred. We do not consider that any percent of the co-operative societies have been able to wipe out the debts of the agriculturists.

Q. 86. The Debt Settlement Boards have only began to function recently. It will no doubt do some good to big farmers who contracted debts. But generally they are doing more mischief than the contemplated good. Claim of rent has very wrongly been included within the term of debt. The ignorant mass has been over-encouraged to think that they can avoid all sorts of payment by taking resort to the law. Those who were hitherto paying their rent regularly have, in many cases, withheld them although paddy is growing as usual. Instalments are also being granted for rent decrees, which the tenants in most cases could have otherwise satisfied although with some difficulty by the sale of their produce. But they cannot save or keep in

deposit the price of their produce but spend them all in some other ways. The result will be that their debts will swell bringing in their ruin in the long run. Forced payments save both the payer and the payee.

As regards loan debts the law will not give them much relief. Where loan was felt to be unrealisable from debtors, the creditors themselves make easy terms in instalments. It cannot be gainsaid that it has both sides good and bad. But the adoption of an artificial way of wiping out the debts must have its serious repercussions. The sound remedy there was in the provisions of the Bengal Tenancy Act of 1885 when raiyati holdings were non-transferable. Under that provision of the law inconsiderate cultivators could not contract or get heavy loans, and mahajans were careful not to advance such amount of loans which could not be realised amicably or by attachment of moveables. By making the raiyati interest transferable, better facilities have been given for giving and taking loans and the tenants are being heavily encumbered. Now with the functioning of the Debt Settlement Boards, mahajans have stopped payment of further loans but loans must be had in times of necessity for all persons in society and the needy agriculturists are nowadays being compelled to sell away or lease away their lands whenever they are in need of money. Village credit system has been shaken to the very foundation. Making the raiyati right transferable and giving these inconsiderate and ignorant classes of people every facility to contract debts necessarily or unnecessarily, it is now useless to think of saving them by new legisaltion. The constitution of the Boards consisting of members has been a worse cause of grievances. Corruption is going on freely amongst the members of the Board in rural areas. It is a wonder that it does not attract the attention of the authorities. It is strange that the members of the Board sit as judges of their own debts and make a word.

Q. 87. It is a matter of experiment and the result cannot be anticipated.

Q. 89. The machinery at present is no doubt costly and cumbrous. Easier methods should be thought out and resorted to. Now that the Settlement records have been prepared and finally published almost throughout the province, similar provision may be made for landlords, who claim rent at the rate recorded in the Settlement papers or under registered contract, for realisation of their rent as provided in the Patni Regulations. This method may save the landlords and tenants from incurring heavy litigation costs and discourage irresponsible lawyers to induce the ignorant cultivators to drag on defenceless litigations ultimately to no useful purpose. The present procedure in the conduct of rent suits are harassing both to the landlords and to the tenants. As a matter of fact we see that a very large proportion of rent suits is decided *ex parte*.

Q. 90. In practical application, the proceedings under the Public Demands Recovery Act are harassing to some extent not so much on account of the provisions of law as to the actual conduct of the proceedings by officers and peons of the department. Our suggestion has been given in reply to question 89.

Q. 91. We are in favour of revising and codifying the revenue laws into a more up-to-date and simple form. We are of the same opinion as regards the latter part of the question.

Q. 92. As regards the Revenue Sale Law—provisions should be made for deposit of the sale money by the defaulter within 30 days from the date of sale. It is sometimes seen that estates are sold for such petty sums as annas 2, 3 or such amount as a result of miscalculation of arrears. Sometimes defaults are made through the negligence, intentional misconduct or intrigue of agents causing great loss to the proprietors. The Bengal Tenancy Amendment Act of 1938 has operated too harshly on the landlords. Abolition of landlords' transfer fee seems not only inequitable but illegal and *ultra vires* as well. Before the amending Act of 1929 tenants could not transfer their lands against the will of their landlords. Full proprietary rights of the landlords were preserved. By the amending Act of 1929, raiyati holdings were made transferable subject to the payment of landlords' transfer fee. Here also the proprietary rights of landlords were preserved. By the amending Act of 1938 the proprietary rights of landlords were totally ignored. This should be remedied.

Denial of right of pre-emption to the landlords, has not only been inequitable but disastrons, so to say. Commencing from time immemorial, for the first time on this occasion, the right of the landlords to choose their tenants has been denied. It has been a great source of trouble and harassment to the landlords. One landlord having grudge against the other will have easy facility to purchase the raiyati interests of the latter and enter into his estate or tenure creating troubles and litigations. The poorer landlords will be the worst sufferers. It is a custom to induce some tenants even making some concessions and rendering necessary help to them near the homestead of each landlord; not so much for rent but for their help in times of trouble and necessity. Their rival landlords will now purchase those rights and harass them by inducting undesirable and troublesome persons there simply to chastise them. It is difficult to ascertain what benefit the tenants could derive by the provision and what they were to lose if the landlords were permitted to get back their lands by paying the whole purchase money and the prescribed compensation. The landlords ought to have been given the second right of pre-emption. As regards the right of pre-emption given to the co-sharer tenants, the provision is practically useless. A co-sharer tenant, having grudge against his other co-sharers, generally sells his share to such persons who can

chastise his co-sharers. The provision made in favour of such co-sharers can easily be defeated by putting a much higher fictitious value in the conveyance and thereby disabling the co-sharer tenants to pay the value. The provision in the Act that the pre-emptor is required to deposit the value "mentioned in the notice" should be amended and courts will have power in such cases to ascertain the real value of the land at which it was actually sold. The whole Amending Act was enacted in a hurry and without accepting public opinion and criticism with the result that the provisions made therein were faulty and defective in many places. It is not practicable to enumerate them all here which will require a too lengthy space in our replies. After this enquiry by the Commission the whole Act should be reconsidered afresh.

Q. 93 (1) Abolition of landlords' transfer fees will deprive the landlords of their income from such transfers through courts from 1929, which before 1929 they realised amicably.

(2) The withdrawal of the right of pre-emption from the landlords will create serious troubles and litigations amongst the rival landlords.

(3) The right of pre-emption given to the co-sharer tenants, after the abolition of landlords' transfer fee, is futile and will create trouble and various litigations amongst raiyats.

(4) The usufructuary mortgagees in most cases, who are raiyats, will be ruined.

(5) The provision for unrestricted right of transfer by raiyats will result in their ruin.

(6) The provision for easy subdivision of land will result in creation of uneconomic holdings which is being tried to be checked.

(7) The abolition of the speedy method of realisation of rents by landlords under the provisions of the Public Demands Recovery Act will create troubles for the landlords.

The Cess Act should be amended releasing the landlords from the liability of collecting cesses from their tenants and pay the same to the Collectorate. In union boards and municipal areas landlords are not required to pay the cesses and taxes due by their tenants who pay them directly to the boards and municipalities. The tax collector does not lose his real property for inability to collect. By the Cess Act the zamindars do not get any commission for their collections but they are to pay the whole cesses due by their tenants in advance and in default of payment their estates are sold. There can be no justification whatever for this provision. By Regulation 1 of 1793 the zamindars were allowed to enjoy their properties for ever subject to the payment of revenue only. By the above provision of the Cess Act, the zamindars' right to retain their properties have considerably been curtailed. Occupancy right should be given to non-agriculturist holdings as well.

Reply by the Malda Landholders' Association.

Q. 1. The description is exhaustive, except that clause (c) of the quid pro quo of this question is not the same as used in Regulation I which is "to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats." There is a lot of difference between the meanings of the two expressions.

Permanent Settlement did not take away any existing right of the tenants.

Q. 2. Yes, because the landlords were declared to be proprietors of the soil and also the exclusive enjoyment of the fruits of their good management and industry was guaranteed.

Q. 3. The landlords have played a great part in the economic development of the country in various ways. They have improved agriculture, helped the tenants to extend cultivation and encouraged commerce and industries generally. The Permanent Settlement has created an active, strong and independent middle class which is the backbone of the nation in every civilised country. Such a class, so far as we know, is not to be found in any other part of India. Almost all the leaders of movements whether economic, social, educational, political, literary or scientific, have come from this class. They have established schools and colleges, dispensaries and carried the torch of civilisation to the door of the masses. They have not failed to perform the functions expected of them at the Permanent Settlement.

Q. 4. It seems correct to say that the Permanent Settlement converted the status of zamindars from collectors of revenue to actual proprietors of the soil. We will deal with this more elaborately in our reply to question 24.

Q. 5. It is true that the annulment of the Permanent Settlement would be a breach of a solemn pledge given by the East India Company to the zamindars. From time immemorial the State had been the actual proprietor of the soil in India till this right of proprietorship was transferred permanently to the zamindars by the Permanent Settlement. The tenants, not being proprietors of the soil, were never necessary parties. The very language of the Regulation leaves no room for doubt that the Permanent Settlement was a solemn pledge never to be annulled or modified. Instances may be cited of the use of such expressions as "actual proprietors of the soil", referring to the zamindars, in various articles of the Regulation, "jama to remain unalterable for ever", and "no demand will ever be made upon them (landlords) or their heirs or successors, by the present or any future

Government, for the augmentation of the public assessment" etc.; *vide* Article VII of the Regulation. It is not true to say that the Permanent Settlement crippled the financial resources of the country. (*See* also reply to questions 3, 10, 11, 12 & 13.)

Q. 6. This expectation has been fulfilled.

The large increase in the area brought under cultivation since the Permanent Settlement has been partly due to the increase in population and partly to the initiative of the zamindars and the enterprise of the tenants. The proportion may be approximately estimated at 25 per cent. for the increase in population, 50 per cent. for the initiative of the zamindars, and 25 per cent. for the enterprise of the tenants.

Q. 7. (*i*) 60 per cent. may be ascribed to the industry and good management of the zamindars;

(*ii*) 25 per cent. to increase in cultivation and reclamation of waste lands by the efforts of the tenants; and

(*iii*) 15 per cent. to enhancement of rents.

Q. 8. Yes, they have fulfilled the expectation. In fact, there is no scope for bad faith and immoderation in view of the laws in force.

Q. 9. All the improvements that have been effected, have been made by the zamindars themselves without the help of Government or the tenants.

The zamindars have discharged all the duties imposed by the Permanent Settlement upon them.

The question of absenteeism does not arise.

Q. 10. The Permanent Settlement was in the interest of the country and for the greatest good of the greatest number and it has led to a revenue system which is to the benefit of the province. Certainly it has not resulted in the advantage of the landlords at the expense of the tenants.

Q. 11. The criticism is not justified, because 80 per cent. could never have been appropriated by the zamindars after defraying the costs of management, litigation costs, improvements, statutory charges, etc.

Q. 12. No, we do not advocate the abolition of the Permanent Settlement.

Q. 13. No, it does not involve any loss to the State. The statement showing a loss of 75 per cent. does not include the costs of management, litigation, improvements, statutory charges, permanent arrears of rents by the tenants, etc. If Permanent Settlement is

abolished, there will never be 80 per cent. margin as estimated. The methods advocated will not improve the revenue. Assuming the loss to be so, the abolition of the zamindari system or the cancellation of the Permanent Settlement will not recoup the loss as the cost of management and expropriation will be enormous. The imposition of an agricultural tax will be an utter violation of the Permanent Settlement.

Q. 11, 12 and 13. The charge against the Permanent Settlement that it has led to enhancement of raiyati rents and that it has created a system of overlordship over the cultivators which is harassing and oppressive is not at all sustainable. There is no evidence that the raiyati rent was fixed before the Permanent Settlement; on the contrary the tenants were much worse off and were oppressed before the Permanent Settlement. By the Permanent Settlement everything became systematized and the tenants were saved from the oppressions of the dark period preceding the Permanent Settlement. The rents were enhanced it is true, but that by subsequent codified laws administered by the courts. Moreover, by the Permanent Settlement 257 lakhs out of the total ascertained assets of 285 lakhs, i.e., 90·17 per cent. of the ascertained assets (*vide* question 46 of this questionnaire) was assessed as Government revenue. This excessive assessment must have been made keeping in view the future enhancement of rent besides extension of cultivation. Any grievance by the tenants on this score is untenable. It should also be noted that the tenants under the temporarily settled estates and the khas mahal pay a much higher rate of rent than under the permanently settled estates. (*Vide* Statement No. IX of the Statistics sent with Commission's Circular No. 3, dated the 19th December 1938.) Though the zamindars cannot be said to be ideal landlords in all cases, yet there is no denying the fact that the tenantry have been on the whole dealt with sympathetically, particularly with regard to the concessions shown by the landlords about the realisation of rent. There have been few suits and large amounts were allowed to be barred to allow the tenantry to tide over bad harvests. It cannot be denied, however, that the landlords were at one time considered the natural leaders. Their tenants looked upon them as their natural guardians and turned to them for help in times of distress. Over the greater portion of the country the tenants and the landlords lived in amity and mutual friendliness. Then a time came when many of the landlords left their estates and lived a life of luxury in big cities. With a few exceptions the big landlords have of late kept themselves aloof from the progressive movements of the country. The evils of absenteeism amongst the landlords and the preaching of individual rights amongst the tenants have estranged the feelings between landlords and tenants. It

may be noted here that all the zamindars of this district (Malda) are happily free from this defect, i.e., absenteeism, and they live within their estates and deal with their tenants themselves.

In spite of the defects in the zamindars mentioned above, they have now risen to the occasion and parted willingly with some of their rights and are trying to remedy their own defects. No good can always be expected from compulsory legislation. It is the good feeling between the landlord and the tenant from which any lasting benefit can be effected. In these circumstances, the question of the abolition of the zamindari system or the cancellation of the Permanent Settlement and substitution of the system of temporary settlement in its place or the imposition of a tax on agricultural income should not arise. Moreover, in view of the administration at present obtaining in Bengal, the discordant elements and the communal tension amongst the persons in power, it is impossible for the present Government to look at things dispassionately. The time is not yet ripe for initiating this great change and we ought to await the time when the people of the country will be more ready than now to make some sacrifices for the good of the country than to blindly stick to their so-called rights and privileges. Any attempt at the present moment to abolish the zamindari system or the cancellation of the Permanent Settlement or substitution of the temporary settlement or the imposition of a tax on agricultural income would be ruinous to the country and particularly to the cultivators of the soil. As to the allegation that the Permanent Settlement has created zamindars oppressive to the tenants, it may be said that after the Permanent Settlement it was rather the landlords who were at a disadvantage. The tenants became so independent that it was considered necessary by Government to enact Regulation VII of 1799 giving the landlords power to distrain the crops, etc., of the raiyats and to arrest their persons for arrears of rent without reference to any court. Regulation V of 1812 abolished the power of arrest, but the right of distraint remained. On this point, Sir William Hunter in his introduction to the Bengal MSS. Records writes as follows:—

"The laws of 1799 and 1812 are so painfully associated in subsequent history with harshness to the cultivators, that it is necessary to emphasise the forgotten fact that they were at the time considered indispensable for the preservation of the landlords. I, therefore, quote a remarkable statement by a Bengal Administrator, whose authority on such questions is beyond dispute. 'It may not be generally known,' wrote the late Mr. Buckland, 'that the Regulation of 1799 was enacted in order to save the perpetual settlement, the existence of which was then imperilled by the excessive independence of raiyats. For although it is now the custom to say that the rights

of the raiyats were not properly protected in the perpetual settlement, it turned out at the time that they could take such good care of their rights that the zamindars could not collect their rents from them until the Government came to the rescue of the zamindar and made the raiyats liable to arrest for default of payment of rent."

The same is the position now; it is the landlords who are being ruined by the tenants by non-payment of rent and not vice versa.

Another fallacy of the argument that the Permanent Settlement involves a loss to the State of 75 per cent. of the raiyati assets estimated at Rs. 12 crores is this. Out of the total rent roll at the time of the Permanent Settlement of Rs. 285 lakhs, Rs. 257 lakhs, i.e., 90·17 per cent. of the assets was fixed as Government revenue. This percentage is too heavy and unnatural. No landlord could have made any profit after payment of this revenue. This revenue was assessed with the sole intention that the landlords would in the long run be compensated by extension of cultivation and enhancement of rents of the tenants. Assuming the aforesaid figure of present raiyati assets—Rs. 12 crores to be correct, it has taken nearly a century and a half to arrive at this figure by the enterprise of the landlords who had incurred heavy losses during the earlier years following the Permanent Settlement, and when they had begun to enjoy the fruits of their enterprise and investments, a proposal is thrown like a bomb-shell to do away with the Permanent Settlement and to deprive them of their legitimate compensation.

Subinfeudation as it exists should be upheld in order to maintain the economic equilibrium of the province, but further subinfeudation should be discouraged.

Q. 14. If the zamindari system is abolished or Permanent Settlement be cancelled, compensation should certainly have to be given to the zamindars. The compensation should be at the rate of 40 times the net profit. It is not possible to give an estimate.

Q. 15. If compensation be paid in bonds, they should be redeemable at the option of the landlord after 5 years and the rate of interest should be 6 per cent. per annum.

Q. 16. The social structure will be the same as in khas mahals.

Q. 17. Certainly, the interests of all tenureholders should also be purchased. Otherwise, the purchase of zamindari would be without any value whatsoever.

Q. 18. It is not possible to answer without proper data.

Q. 19. The raiyats are under a great disadvantage in the khas mahal and temporarily settled estates as they have got to pay their rents regularly by the end of the financial year. Raiyats do not prefer khas mahal.

Q. 20. Subinfeudation has not been the result of the Permanent Settlement but of the Tenancy laws. The position of the raiyats has much improved socially and economically by the creation of the Permanent Settlement. They have secured rights and privileges which they could not have dreamt of before the Permanent Settlement. In truth, none of the rights and privileges which the tenants have been enjoying since the creation of the Permanent Settlement had been ever enjoyed by them in India from the earliest times, either under Hindu or Muslim rule. The occupancy right itself is the creation of British legislation. In this connection please see our reply to question 24.

Q. 21. It will totally upset the economic and social structure of the province.

Q. 22. If the zamindaris and tenures are purchased by the State, homestead and khas lands of the zamindars and the tenure-holders should be left to them on payment of a fixed and non-enhancible rent with all the rights and privileges which they enjoyed before. These lands have been recorded in the Settlement. Khas lands mean land cultivated in khas by hired labour or by barga, adhi or furan.

Q. 23. The occupancy right of raiyats is a creation of British legislation.

Q. 24. It is a myth to say that the cultivating raiyats have always been the actual proprietors of the soil and that the rents paid by them to the State were a form of tax for affording protection to their person and property and for carrying on the administrative machinery. Those who assert this theory either have no knowledge of Indian History or consciously pervert the facts with some ulterior motive. In India from the earliest times soil belonged to the ruler and the cultivator was merely his tenant, till in the case of Bengal, Bihar and Orissa, the right in the soil was for ever transferred to the zamindars by the Permanent Settlement enacted by the British ruler. Abbé Dubois, in his enlightening book entitled "Hindu Manners", expressed the opinion that in Malabar, the home of the Kayars (Nairs), Coorgs and Tulus, whom he regarded as the three aboriginal tribes of the western coast, is to be found the clearest example of absolute private property in land, closely resembling the English freehold. Dubois says that Malabar "is the only province in India where proprietary right has been preserved intact until the present

day. Everywhere else the soil belongs to the ruler and the cultivator is merely his tenant". The proposition enunciated by Dubois that "everywhere else the soil belongs to the ruler" has been generally accepted and now the doctrine is current in the Native States.

The commentator on the renowned treatise Arthasastra (Book II, Chapter 24) had no doubt on the subject. He declares that "those who are well versed in the scriptures admit that the King is the owner of both land and water and that the people can exercise their right of ownership over all other things excepting these two." The author of the treatise, as a whole, seems to accept that view. The rules in Chapter I of Book II instruct the King that lands prepared for cultivation shall be given to tax payers (karada) only for life (ekapurushikani); and that "lands may be confiscated from those who do not cultivate them, and given to others". The author evidently held that land of all kinds was at the disposal of the Government. Most native Indian Governments, including those of the Muhammadan dynasties, have taken in the shape of land revenue and cesses a large proportion of the produce. In those circumstances, no room was left for economic rent. The land revenue, or State share of the produce, may be regarded as rent rather than as taxation on the assumption that the ultimate property in land is vested in the State. The normal share of the produce admitted to be claimable by the Government was one-fourth. But Emperor Akbar took one-third, and the Sultans of Kashmir claimed half.

From the above facts it would be clear that the idea of the cultivators' right of property in the soil is quite foreign to India. Far from having any such right, the cultivators had not even the hereditary right to till the land as would appear from the quotation made from the Arthasastra given above. So, many of the alleged grievances of the raiyats are imaginary. Their position has much improved during the British administration and we think they are better placed than even the tenantry of Britain.

The undisputed proprietary right of the State in the soil was irrevocably transferred to the zamindars, independent talukdars and other actual proprietors of land subject to payment of revenue to Government.

Q. 25. We are for confining the right of occupancy to the raiyat as given by the Act of 1885.

Q. 26. By the Tenancy Law of 1885.

Q. 27. Yes.

Q. 28. No. In case of such conversion the zamindar or the khas mahal as the case may be, should be entitled to make the land khas.

Q. 29. The number of bargadars is on the increase. The causes are—

(*i*) as in question 30;

(*ii*) want of other occupations and facilities, viz., trade, commerce, rearing of silk and other sources of income.

Q. 30. Not exhaustive; *vide* answer to question 29.

Q. 31. 15 bighas. Majority of bargadars were not occupancy raiyats.

Q. 32. Right of occupancy and other rights should not be extended to bargadars. Question of protection does not arise. They are merely labourers and they are amply remunerated, as they generally get half of the produce.

Q. 33. The barga system is economically sound. Its abolition would seriously affect the economic equilibrium of the country. There is no need for its prevention. Its prevention will create unemployment.

Q. 34. A large number of people would be thrown out of employment and there will be a serious dislocation of economic equilibrium.

Q. 35. Generally fair proportion is half of the produce, but it may vary according to circumstances. Therefore, without fixing the proportion by law it is better to leave the parties to fix the proportion amongst themselves according to circumstances.

Q. 36. The wages of agricultural labourers are 3 to 4 annas per day in this district (Malda). The bargadars and the under-raiyats seem to be better off than the labourers.

Q. 37. The unrestricted right of transfer given by the Acts of 1929 and 1938 will certainly be prejudicial to the interest of the cultivating raiyats as a whole. The only remedy, it seems, is to revert to the good old principle that the raiyats' sale should be subject to the consent of the landlord.

Q. 38. The minimum size of an economic holding must vary according to the quality of the land and other circumstances obtaining in different parts of the country. But so far as this district is concerned (Malda), 20 bighas of good land seems to be the minimum size.

Q. 39. The size of the raiyati holding is certainly uneconomic. The reasons given in this question tending to further subdivisions and fragmentation of holdings are true.

Q. 40. Reasonable consolidation of holdings is desirable.

Q. 41. Facilities may be given for reasonable consolidation of holdings on an economic basis.

Q. 42. Accumulation of large areas is undesirable. The limit should be 1,000 bighas. A raiyati holding should not be transferable, it should be left to the discretion of the landlord.

Q. 43. Yes. This evil cannot be substantially minimized without interfering with the laws of inheritance, but can be partly minimized by doing away with the unrestricted right of transfer given to the raiyats and reverting to the principle of transfer and subdivision subject to the consent of the landlord.

Q. 44. In view of the laws of inheritance, we do not think anything can be done.

Q. 45. No.

Q. 46. It was certainly contemplated that one of the means adopted by the landlords for increasing their income or profits would be by enhancing the rates of rent payable at the time of the Permanent Settlement.

Q. 47. The framers of the Permanent Settlement did never contemplate permanency or fixity of the rates of rent either in the case of tenants then existing or in the case of tenants who might subsequently be introduced on the land and the series of Acts enacted subsequent to the Permanent Settlement would prove that.

Q. 48. The question does not arise.

Q. 49. Supposing it to be so, in bare justice there is no case for reducing the rents of such tenants in future, or retrospectively to the level prevailing at the time of the Permanent Settlement or to any level, as the economic and local condition and taxation, direct or indirect, prevailing at the time of the Permanent Settlement were not the same as they are now.

There is no material available for determining what those rates were and for distinguishing those tenants who are successors-in-interest of tenants existing at the Permanent Settlement and those who have taken settlement subsequently. Assuming that old papers of the zamindars are available, it would be impossible to find out a connecting link up to the present.

Q. 50. No, it was not a mistake, as it took into consideration only the economic, material and local conditions prevailing at that time.

Q. 51. It could never be the intention of the framers of the Permanent Settlement that all future settlements of waste lands should be made at the rates prevailing in 1793.

Q. 52. The principle of determining fair and equitable rents should be a definite share of the produce (vide item 3 of the question). The disadvantage mentioned of this system, that poorer land pays higher rent in proportion, may be avoided by dividing the land into 3 or 4 classes according to quality and then fixing different shares for different classes. The outstanding merit of this system seems to be that the tenants will thereby more easily withstand the effects of a bad harvest.

Q. 53. The present rents seem to be paid mainly on consideration of the productivity and quality; then on custom and to a small degree on competition. Majority of the rents cannot be described as lump rents, though some solitary cases might be of lump rents.

It cannot be said that the rates differ greatly for lands of similar value in almost every village and estate, though such instances are not wanting.

Q. 54. No. Fair and equitable principles in each case as determined by the courts.

Q. 55. We would recommend the payment of a definite share of the produce as rent, but the share, as has been said in reply to question 52 above, cannot be uniform throughout all parts of the province. It must vary according to circumstances, particularly the variation in the quality of the land. A new record-of-rights may not be necessary, but a classification of the lands will be imperative.

Q. 56. We would recommend 33 per cent. of the produce subject to slight variations for the inferior lands. The normal share of the produce admitted to be claimable by the Government during the Hindu reign was one-fourth. Emperor Akbar took one-third and the Sultans of Kashmir claimed one-half. The Government share, it is true, was always limited theoretically, but in practice the State usually took all it could extort.

Q. 57. Rent should never be fixed in perpetuity, but it should be alterable according to the money value of the produce. No organisation should be set up for re-examining the rates of rent generally. In all cases this should be done at the instance of the parties by the Civil Courts instead of by Revenue Officers.

Q. 58. No.

Q. 59. The provisions of the Bengal Tenancy Act of 1885 are not defective.

Q. 60. No. It is not fair that a particular tenant should get all the benefit of the improvement and the landlord nothing. If the landlord has done nothing to bring about the fluvial action, the tenant has also done nothing. The landlords should get enhancements for fluvial action as they are proprietors of the soil.

Q. 61. No.

Q. 62. Yes.

Q. 63. The meaning is not clear.

Q. 64. No, the sanctity of contract should be maintained. There should be no provision in law for limiting rents for new settlements.

Q. 65. It is defective in many respects. Aeroplane survey is not suitable. The procedure should be cheaper and the machinery should be more efficient. Description of land should be more clear. North boundary should be given. There should not be provision for deduction of 10 per cent.

Q. 66. No.

Q. 67. Yes.

Q. 68. We do not know of any particular estate, but it is generally so done.

Q. 69. Yes.

Q. 70. It is not possible to answer.

Q. 71. Because, the Government does not follow the rule.

Q. 72. Jute per acre 12 maunds. Paddy per acre 9 maunds. Sugarcane per acre 450 maunds. Cost of cultivation per acre: Jute —Rs. 10; Paddy—Rs. 6; Sugarcane—Rs. 6.

Q. 73. It seems that the productivity of the soil in Bengal is generally on the decrease. Reasons roughly are want of education, sluggishness of the tenants which has made them unfit to take recourse to improved methods of cultivation, the silting up of the rivers, poverty, etc. Practically the Government has taken no steps. The steps that have been taken are wholly inadequate and insufficient to cope with the situation.

Q. 74. No initiative has been taken by the Government.

Q. 77. The land system of Bengal is not certainly responsible. No modification is necessary in the land system. In this connection please see replies to questions 81 and 82.

Q. 78. It is not possible for want of sufficient data.

Q. 79. Yes. Under the present system of law it is not necessary.

Q. 80. The income of the cultivating raiyats may be increased by giving them supplementary occupation and by establishing cottage industries. They should also be encouraged to spin their own cloth in the slack season.

Q. 81 & 82. Pressure of population on the land is certainly a reason of the poverty of the agriculturists. Increase of population in India is perhaps lower than that in other countries of the world, but the condition of the agriculturists in those countries is infinitely better than here. So the cause of poverty is not the population alone. The main cause in our opinion is the gradual extinction of all indigenous industries and manufactures during the last 100 years or more. One glaring instance is the manufacture of cloth. The men engaged in those industries have to fall back upon the land.

Some people, of course, may be diverted to large industries by starting Government-aided factories, but that is not the only means. Government has been strangely callous to the condition of the people. It should take up the matter in right earnest and educate the people, help the cultivators to increase the fertility of the soil, resuscitate the dying rivers of Bengal, start large factories as well as small cottage industries. To sum up, Government should without any further waste of time take to the methods of improvement as is done in all civilized countries and find out sufficient funds to carry on this work by drastic retrenchment in the emoluments of the Ministers, M. L. A.'s, M. L. C.'s and higher officials and by other approved methods. It is an irony of fate that though India is the poorest country, she pays much higher salaries than is done in any other country in the world.

Q. 83. By improving the economic and material condition of the province. There is no organisation.

Q. 84. No, it is not true. By the Bengal Agricultural Debtors Act payment to the mahajans has been totally stopped.

Q. 85. They have not done to solve this problem. The co-operative societies have not benefited.

Q. 86. The Debt Settlement Boards have completely failed to deal with the problem of agricultural debts. The defects are—(*a*) the Boards are inefficient and unable to interpret the law; (*b*) it has given scope for irregularity, harassment and what not; (*c*) it is understood that the Bengal Agricultural Debtors Act has been enacted to evade payment; (*d*) the costs are enormous; (*e*) the provisions and rules are inadequate; (*f*) it has tended to collapse the economic structure of the province. It can be improved by abolishing the Boards

and making provisions for instalment in Civil Court; (*g*) it has practically made it impossible for the mahajans to realise their dues and for the landlords to realise their rents from the tenants. Of course, the Act was conceived with the intention of helping the agriculturists, but it is so one-sided and is carried to such extremes, that the effect has been disastrous, not only to the moneylenders and the landlords but also to the persons whom it was intended to benefit. By the passing of this Act an impression has been firmly rooted in the minds of the agriculturists that they have been released from all liabilities of payments of debts as well as the rents due to their landlords. Unreasonably long terms of instalments, sometimes for 20 years or more, are allowed by the Boards on ordinary debts, rents and even decreed rents. These instalments are seldom paid and on failure of one instalment the whole amount does not become due (as is the case under the ordinary law), but for each default of instalment the creditor or the landlord will have to pray for execution in a court of law within 30 days of the default and this fun of fruitless running after the debtor will continue for a good number of years. Then again, if a debtor files a petition for settlement of his debts and after the service of notices on the creditor or the landlord, the creditor or the landlord does not appear, the case will be decided *ex parte* in favour of the debtor. But if a creditor or a landlord files a petition against a debtor and if the debtor does not appear after service of notices, the rule is that the case of the creditor or the landlord will be dismissed and he will again have to run to the Civil Court for relief. Can anything more strange and iniquitous be conceived of? Though the Act is harassing, nay, ruinous to the interests of the creditor and the landlord, the reaction on the debtors has not been satisfactory. Their moral instinct, which should have made them recognise their duty and liability to pay off their debts and rents, has been corrupted. Further, in times of difficulty, specially in case of failure of crops, the agriculturists used invariably to get loans from their mahajans and sometimes from their landlords, but this Act has compelled the mahajans and the landlords to stop any such advances, because, nobody can be expected to make advances of money when they know full well that the money advanced will have little chance of being realised so long as the said Act is in force. During the last rainy season (year 1345 B. S.) there has been abnormal flood in this District (Malda) and the people were in great distress. Government could not, and cannot, under the present circumstances, fully relieve this distress. Help from the mahajans and the landlords was necessary, but the people got much less help in the form of loans, etc., this time than they used to get on such occasions before. All this is due to this blessed Act.

Q. 87. Yes, we approve of it.

Q. 88. It has not functioned.

Q. 89. Yes. Easy procedure for realisation of rent in Civil Court by application and not by suit should be provided in law. All notices should be served through post instead of ordinary method. In the alternative, certificate procedure should be made available to the landlords generally.

Q. 90. No, all the landlords should be allowed to utilise the Act. It is a pity that by the amended Bengal Tenancy Act of 1938 the benefits of this Act have been withdrawn from the few private landlords who used to enjoy the privileges.

Q. 91. No, it is not advisable.

Q. 92. (*a*) The sunset law by which the landlords are to pay revenue on the fixed dates and on default the estates are put up to sale and time for payment of revenue is granted on payment of fine and interest operates harshly on the landlord. The time for payment of revenue should be extended to three months without imposition of any fine or interest.

(*b*) Under the Government rules, the zamindars of permanently-settled estates can get remission of revenue under certain circumstances (*vide* question 71 of the questionnaire). But no such remission is given and the rules are not followed in practice. These rules should be followed and remissions should be given in fit cases.

(*c*) The present machinery available to the landlords for realisation of their dues is too costly and cumbrous. It is also unnecessarily harassing and expensive to the tenants. The best thing would be to apply the provisions of the Public Demands Recovery Act to the private estates for prompt realisation of the dues of the landlords (*vide* reply to question 89).

(*d*) After revenue sale there should be provision in law on the lines similar to rule 89, Civil Procedure Code.

Q. 93. The amended Tenancy Act of 1938 has been ruinous to the landlords as it has affected their proprietary right in the soil and along with it the income due to this right. At the same time the Act has taken away the right from the landlords to utilize the Public Demands Recovery Act for speedy recovery of rents. Taking along with this the Bengal Agricultural Debtors Act has greatly affected the landlord. The Act of 1938 has neither been beneficial to the tenants inasmuch as having a free scope for sale, the majority of small occupancy raiyats are free to sell their lands and will in course of time be turned into day labourers. The loss of landlord's fee is heavy and cannot be estimated.

Reply by the Midnapore Landholders' Association.

Q. 1 (1st Part). Other duties and obligations of the zamindars are—

(1) To exert themselves in the cultivation of their lands (section VII, Article VI, para. 2 of Regulation I of 1793).

(2) To enjoin the strictest adherence to the principles of good faith and moderation towards their dependant talukdars and raiyats in the persons whom they may appoint to collect the rents from them (section VII, Article VI, para. 3 of Regulation I of 1793).

(3) Not to realise undue exactions from the dependant talukdars. Rules were framed for this purpose (sections 51 & 52 of Regulation VIII of 1793).

(4) Not to realise any new abwabs or mahtut from the raiyats on any pretence whatever, the existing abwabs or mahtuts and other exactions being consolidated with the asal jama (sections 54 & 55 of Regulation VIII of 1793).

Other duties and obligations were imposed on the zamindars in their respective kabuliyats which they had to execute under section 67 of Regulation VIII of 1793; the principal stipulations being—

(*i*) Embankments, etc., were to be kept up by the zamindars and informations given of escheats, under penalties.

(*ii*) No exactions or oppressive practices were to be allowed towards the raiyats who were not on any account to be dispossessed whilst their tenures subsisted and they performed the conditions of it.

Lord Cornwallis while recommending concession of proprietary right to the zamindar thus expressed his views in a Minute—

"The privilege which the raiyat in many parts of Bengal enjoy, of holding possession of spots of land which they cultivate, so long as they pay the revenue assessed on them, is not by any means incompatible with the proprietary rights of the zamindar. Whoever cultivates the land, the zamindar can no more than receive the established rent which in most places, is fully equal to what the cultivator can afford to pay. To permit him to dispossess one cultivator for the sole purpose of giving the land to another would be vesting him with a power to commit a wanton act of oppression from which he could derive no benefit..... With the fixity of the demand of the Government a spirit of improvement would be diffused throughout the country and the raiyats would find a further security" and he hoped that "without any further or detailed rules of law regulating the rights and obligations of the parties, the relations of the zamindars and the actual

occupiers of land would be smooth and that things would adjust themselves as of necessity with the fixity of Government demand." (Appendix to the Fifth Report No. 5.)

The zamindars had before this time to perform police duties, these powers were withdrawn from them. They continued to perform postal duties; these powers were also subsequently withdrawn.

Q. 1 (2nd Part). The Permanent Settlement was concluded between the Government on the one hand and the zamindars, talukdars and choudhries on the other; the latter executed kabuliyats in favour of the Government in accordance with the provisions of Regulation VIII of 1793 and Regulation XLI of 1793. The contractual obligations thus entered into could not have affected the rights, if any, which the tenants possessed at this time, they not being parties to it. But an opinion long prevailed that the Government had given the zamindars the property in the soil and had made the raiyats absolutely dependent upon them except in so far as the raiyats were protected by express legislation (Evidence of Mr. Sullivan before the Select Committee of the House of Commons, 1832). Others considered that the Permanent Settlement was intended to interfere with subordinate rights (Evidence of Mr. Fortescue before the same, 1290, 1303, 1316). In the great Rent Case which was decided in 1865 (Thakoorannee Dassee vs. Bisweswar Mukherjee and others, 3 W. R. Act X rulings, page 29) the majority of Judges appear to have held the view that the right of the zamindar was not an absolute right in the soil as against the subordinate holders but that in that direction the rights of the zamindars were limited by the rights of the subordinate holders. Mr. Justice Trevor said, "The words of Regulation I of 1793 clearly show that though recognised as actual proprietors of the soil, that is owners of their estates, still zamindars and others entitled to a settlement were not recognised as being possessed of an absolute estate in their several zamindaris; that there are other parties below them with rights and interests in land requiring protection just in the same way as Government above them was declared to have a right and interest in it which it took care to protect by law; that the zamindar enjoys his estate subject to and limited by those rights and interests; and that the notion of an absolute estate in the land is as alien from the Regulation Law as it is from the old Hindu and Mahomedan Law of the country (page 34).

Mr. Justice Seton-Karr said:—

"I. Neither by Hindu, by Muhammadan or by Regulation Law was any absolute right of property in land vested in the zamindar to the exclusion of all other rights; nor was any absolute estate, as we understand the same in England created in favour of that class of

persons. The raiyat has by custom as well as by law, what he may term a "beneficial interest in the soil'."

"II. The Decennial Settlement while enhancing the status and fixing the rights of the zamindar did not intend to alter, and did not alter, the common law of the country, with regard to the raiyati tenures; khudkasht raiyats whose tenures commenced at or subsequently to the Decennial Settlement were still entitled to hold such tenures either at the pargana rate or, what is the same thing, at rates payable for the lands of a similar description in the neighbourhood."

Mr. Justice Campbell, Mr. Justice Norman and Mr. Justice Macpherson agreed in the view above expressed. Sir Barnes Peacock, however, seemed to consider a greater right to belong to the zamindar. According to him—"It is clear that since Regulation II of 1793, by which the right of property was declared to be vested in the landholders, that is, in the zamindars and independent talukdars, property in land which formed part of a permanently settled estate could not be acquired by reclaiming it from waste. How then could it be acquired except by contract or adverse possession or by prescription going back as far as the time of the Permanent Settlement?" He was of opinion that neither a right of proprietorship nor a right of occupancy could have been acquired by any other means in a permanently settled estate.

Regulation II of 1793 recited that—"the property in the soil has been declared to be vested in the landholders, which was never before formally declared." At the same time Regulation I of 1793 declares that "it being the duty of the Ruling Power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor-General-in-Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil; and no zamindar, independent talukdar or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay." Thus the rights, if any, of the raiyats were not intended to be interfered with. But what was the nature of those alleged rights?

The only raiyats who at that time were deemed to need protection seemed to have been designated as "khudkasht raiyats". It seems apparent from the whole scope of the Regulations for the Decennial and Permanent Settlements that whatever misconceptions may have existed as to their positions, their rights, if any, were not intended to be affected—"khudkasht raiyats" were those raiyats who cultivated the lands of their own village, that is the village in which they resided.

When there was plenty of unoccupied lands and population was sparse the competition was not amongst tenants but amongst zamindars for raiyats. Tenants once induced to settle in the village were fostered and where son was able to step into father's place the arrangement suited both parties too well for any doubt to be raised as to the course to be pursued upon the death of a tenant. Non-fulfilment of the conditions on which the land was cultivated, or non-delivery of the proprietor's share of the produce were the only grounds which rendered it necessary to remove a tenant. Some landholders indeed conceived themselves to possess the power of ousting these tenants in favour of other persons who were willing to give a higher rent; but in a state of society in which the rents were regulated by custom not by competition such new tenants did not often present themselves and so the practical exercise of the powers were not frequent. Thus notwithstanding occasional instance of ouster it gradually became usual not to evict khudkasht raiyats so long as they paid their rent (Field's introduction to the Regulations of the Bengal Code, pages 24-25). The temporary tenants were generally residents of another neighbouring village who could not obtain in their own village as much land as they are able to cultivate. These have been held by all authorities to have no rights and to be mere tenants-at-will. "It is generally understood," wrote Mr. Shore in his Minute of 28th June 1789 that "the raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed but this right does not authorise them to sell or mortgage it, and it is so far distinct from a right of property. This, like all other rights, under a despotic or varying form of Government is precarious." The Court of Directors observed that "it appeared to be the general maxim under the Moghul Government that the immediate cultivator of the soil duly paying his rent should not be dispossessed from the land he occupied." (General Letter of the 19th September 1792.) The Court of Directors in paragraph 53 of Revenue Letter to Bengal (Revenue Selections, page 360) wrote,—"The inference seems unavoidable that the persons with whom the Permanent Settlement was made and those who by inheritance or purchase may succeed them, are authorised by existing law to oust even the hereditary raiyats from possession of their lands when the latter refused to accede to any terms of rent which may be demanded of them however exorbitant."

The above accounts will show the precarious nature of the rights which the "khudkasht" raiyats had in the land. It is at present very difficult, nay impossible, to trace the history of every tenure or holding back to the time of the Permanent Settlement. The tenures or holdings existing at or before the time of the Permanent Settlement have changed beyond recognition. If, as is very probable, the "khudkasht" raiyats, existing at or before the time of the Permanent Settlement, lost their holdings in course of time either by eviction or

by any other cause and if the zamindars have let out those lands to a new set of tenants, it would now be useless to enquire whether the tenants at the time of the Permanent Settlement had any right or not. The zamindars being the absolute proprietors of the soil by virtue of Regulation II of 1793 would let out their lands on any term they chose and the new tenants would not be able to claim that the previous tenants had such and such rights. "I am clearly of opinion", said Sir Barnes Peacock, one of the greatest jurists who came out to India, "that a raiyat who after the date of the Permanent Settlement and especially after the Regulation V of 1812 was let into possession by zamindar to hold as tenant for a fixed term or at will or from year to year or without defining the period during which his tenancy was to continue did not before Act X of 1859, merely by reason of an occupation for 12 years become a 'khudkasht' raiyat." (3 W. R. Act X Ruling, page 104). He was also of opinion "that if the raiyat's original holding commenced after the date of the Permanent Settlement (and that if it commenced before, it was for him to prove it either by positive or presumptive evidence), he was entitled to have effect given to any definite engagement between him and the landowner either as to the duration of the term, if any, specially granted to him or as to the amount of rent to be paid or the rates at which it was to be assessed. But that if he failed to prove that any such engagement was entered into, or that the term for which he was to hold was ever fixed or defined or that any stipulation was made as to the rate of rent at which he was to hold, he must be considered to have entered and held as a tenant for one year only and to have continued to hold on with the consent of the landowner from year to year or as a tenant-at-will." (Ibid, pages 101-102).

If this was the nature of the rights of the raiyats, Act X of 1859 and Act VIII of 1885 have made serious inroads on the rights of the zamindars on the ostensible plea of protection of raiyats. Thus the rights of the raiyats which were precarious at the beginning were very much enlarged by subsequent legislation.

Q. 2. There is no express provision in the Permanent Settlement Regulations conveying powers to zamindars to choose his tenants or to regulate the usage of his lands to the economic interests of the province. But in the preamble to Regulation II of 1793 it has been stated that "experience having evinced that adequate supplies of grain are not obtainable from abroad in season of scarcity the country must necessarily continue subject to these calamities until the proprietors and cultivators of land shall have the means of increasing the numbers of the reservoirs, embankments and other artificial works, by which to great degree the untimely cessation of periodical rains may be

provided against and the lands protected against inundation; and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those occasional but less extensive deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precaution to obviate them. To effect these improvements in agriculture which must necessarily be followed by the increase of every article of produce has accordingly been one of the primary objects to which the attention of the British Administration has been directed in its arrangements for the internal government of these provinces. As being the two fundamental measures essential to the attainment of it the property in the soil has been declared to be vested in the landholders and the revenue payable to the Government from each estate has been fixed for ever. These measures have at once rendered it the interest of the proprietors to improve their estate and given them the means of raising the funds necessary for that purpose."

This declaration shows that the proprietors were given the powers to take such steps for the purpose of improving their estates and increasing the produce of land as they deemed advisable. This power must have included the power to choose tenants and to regulate the usage of land to the economic interest of the province. It must also be remembered that in the Great Famine of 1770 A. D. more than one-third of the population of Bengal had been swept away and more than half of the land were lying uncultivated at the time (6 M.I.A. at page 114). Hence it was necessary for the zamindars to whom the lands were transferred to have absolute power to let them out to tenants according to his choice or to take steps to bring them under cultivation himself.

By section 52 of Regulation VIII of 1793 the zamindars acquired the power to let the remaining land of his zamindari or estate under the prescribed restrictions in whatever manner he may think proper. The restrictions prescribed were enumerated in sections 52, 53, 54, 55, 57 and 59. Subject to these restrictions the zamindar acquired all powers to deal with the land as he liked.

Sir Edward Colebrooke on the 12th July 1809 expressed the opinion that the Permanent Settlement "left the zamindars to make his settlement with the peasantry in such terms as he might choose to require." (III Revenue Selections, page 167).

Mr. Mill in his History of British India wrote, "Zamindars were empowered to make with their raiyats any settlements which they chose."

Q. 3. The landlords have played a great part in the economic development of the country since the Permanent Settlement. In the opinion of my Association they have not failed to perform the functions expected of them at the time.

The Permanent Settlement led to a great extension of cultivation (Robinson's Land Revenue, page 29); the waste land which has been variously said to have been one-third or one-half was much reduced in consequence. I may point out that the cultivation of waste land was one of the main objects of the Permanent Settlement. (Raja Leelanund Singh Bahadur vs. Bengal Government, 6 M.I.A. at page 114.)

"Whatever may have been the abstract rights intended to have been conferred upon the zamindars by the Regulations, in practice they have, generally speaking, never been exerted to the extent of producing a rack-rent. This is hardly denied by anyone; and the very considerable margin which any calculation of any rack-rent exhibits beyond that which the landlords even venture to claim in litigation, sufficiently supports the position." (Judgment of Mr. Justice Phear in the Great Rent Case 3 W.R. Act & Rulings at page 52.)

The zamindars have greatly extended cultivation by bringing large areas of waste land under tillage, planting colonies of peasants by means of concessions and pecuniary help, draining marshes, clearing jungles and digging tanks. The actual work of reclamation of soil was done by raiyats but under the indispensible help, protection and guidance of the zamindars. (Seton-Karr's Cornwallis, pages 45-49.)

The proprietorship conferred on the zamindars has also much to do with the introduction into lower Bengal, nearly alone among Indian provinces, of new and vast agricultural industries. (Maine's Village Communities, page 163.)

By the agency of the zamindar a new sanitary measure, a new method of cultivation or a new kind of crop can be quickly introduced among the peasants. "Scarcity is met, relief works are set on foot and supplies are transported (in a famine) with a greater facility, where there are large zamindars, than in provinces where the settlement has been made with the heads of village communities or with each raiyat direct." (Seton-Karr, page 70.)

The zamindar is the only channel through which new knowledge and comforts of civilization can reach the cultivators. His manor is an oasis of culture amidst a dead level of ignorance and poverty. In Bengal it has generally a school, a dispensary and a post office

maintained by the zamindar which benefit all the neighbouring villages. To his temple at Puja time flock all the peasants, male and female, Hindu and Muslim; it plays the part of a club to them and affords the only source of collective amusements to them. (Sir Jadunath Sarkar's Economics of British India, 3rd edition, pages 109-110). His aid to education, sanitation, famine relief, literature and art all over the country has been most liberal, as the Bengal Administration Reports of the several districts and the Famine Commission Reports will amply testify.

My Association does not consider that the zamindars failed to perform the functions expected of them at the Permanent Settlement. Section 7 of Regulation I of 1793 laid down:—

(*i*) that the zamindars will exert themselves in the cultivation of their lands;

(*ii*) that they will discharge the revenue at the stipulated periods without delay or evasion;

(*iii*) that they will conduct themselves with good faith and moderation towards their dependent talukdars and raiyats.

Let us deal with these point after point:—

(*i*) With regard to the 1st clause my Association has already shown that there was great extension of cultivation immediately after the Permanent Settlement.

(*ii*) With regard to the 2nd clause it may be mentioned that the jama fixed was very high. The preamble of Regulation II of 1793 shows that the amount of jama was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the raiyats or tenants for each bigha of land in cultivation, of which after deduction of expenses of collection, 10/11ths were considered as the dues of the Government and the remainder the share of the landlords. The State demand was fixed so high in the hope that the zamindars would succeed by the improvements of their estates to increase gradually the scanty amount left to them. The assessment was as severe as it could possibly be made; the amount realised in 1790-91 being double the assessment of Jaffar Khan and Suja Khan, three times the collection of Maharaja Nanda Kumar in 1764-65 and about double the collections made by Reza Khan in 1765-66, though one-third of the population had been swept away and about half the lands remained uncultivated. (Economic History of British India by R. C. Dutt, Chapter V.)

The revenue fixed was so high that within the course of 15 years the Rajas of Nadia, Rajshahi, Bishenpur, Dinajpur, Kashijora and

may others were almost submerged under its wave. The Birbhum zamindar was completely ruined. A host of smaller zamindars shared the same fate. It is perhaps scarcely too much to say that in a few years a complete revolution took place in the constitution and ownership of the estates which formed the subject of settlement. The dismemberment was quick and the ruin subversive of its very principles. Only the Raja of Burdwan heavily assessed as his estates were escaped through an accident. (Mr. S. C. Mitra's Land Laws of Bengal, Section IV, pages 91—92, 1st edition.)

The frequent and successive sales of lands which took place in consequence of the default of the zamindars to pay their dues punctually, were found productive of material ill-consequences as well towards the land proprietors and under-tenants, as in their effect on the public interest in the fixed assessment of their land revenue. The Select Committee in their Fifth Report attributed these results to a change of system. They point out very forcibly that the new system had abolished under very severe penalties, the exercise of powers formerly allowed to the zamindars over their tenantry and had referred all personal coercion as well as adjustment of disputed claims to the newly-established Courts of Justice; that these Courts were utterly unable to cope with the work thus thrown upon them (in Burdwan there were more than 30,000 cases before the judge); that the determination af a single suit could not be expected in the course of the plaintiff's life; that the cultivators, taking advantage of the inability of the Courts to afford the zamindars redress, withheld their rents and in their turn made the zamindars suffer; that the rules for the distraint of the crop or other property founded on the practice in Europe and intended to enable the zamindars to realise their own rents, by which means alone they could perform their engagements with the Government, were ill-understood and not found of easy practice. That the proportion of the produce fixed as the Government share namely tenth-elevenths of the rents paid by tenantry, was in most cases a large proportion and it required a most attentive and active management to enable a landholder to discharge his instalments with the exact punctuality required by the law.....Under these circumstances the Committee conceived it to have been shown that the great transfer of the landed property by the public sale and the dispossession of the zamindars which took place within a few years after the conclusion of the Permanent Settlement could not be ascribed to the profligacy, extravagance and the mismanagement of the landholders but had to a certain extent followed as the unavoidable consequence of the defects in the public Regulations combined with the inequality in the assessment and with the difficulties, objections and delays with which the many nice distinctions and complex provisions of the new Code of Regulations were

brought into operation among the illiterate persons who were required to observe them. Mr. Marshman correctly says—"In the course of seven years dating from 1793 most of the great zamindars who had survived the commotions of more than a century were ejected from the estates of which they had recently been declared the sole proprietors. It was a great social revolution affecting more than a third of the tenures of land in a country the size of England." The Raja of Burdwan was the only one of the great zamindars who escaped. (Field's Introduction to the Regulations of the Bengal Code, page 79.)

Stringent Regulations were passed for realisation of revenue. By Regulation XIV of 1793 provision was made for realisation of revenue by monthly instalments and for arrest and confinement of zamindars if the third part of the instalment of any one month were not paid by the 15th of the following month and for simultaneous deputation of an Amin to collect the rents from the defaulters. These provisions were made although the Government fully knew that previous to the Decennial Settlement they themselves were unable to realise the amount fixed as due by the Permanent Settlement, and that the zamindars would be unable to pay punctually the heavy amount assessed on them, as most of the lands were full of jungles and lay uncultivated. The result was that most of the landlords were put into prison and the old order threatened to return again. By Regulation III of 1793 the Governor-General-in-Council considered property alone to be sufficient security for the public dues. But it was at the same time provided that if the whole of the amount due were not realised by the sale of their lands they would be liable to be confined for the balance of the arrears of public revenue. It was not till 1799 that the Government realised that the zamindars were unable to pay their dues punctually on account of the default made by the tenants. Regulation VII of 1799 was thereupon passed giving large powers of distraints to the landlords and in case of arrears exceeding Rs. 500 due from the under-tenants landlords were given the power of arrest. The 15th section gave them power to eject the tenants on failure to pay rents. In the 21st section it was stated that these provisions would afford proprietors the means of realising the rent with promptness and facility. It was also provided that if any arrear remained due from a proprietor at the close of the year the Collector was to report the amount to the Board of Revenue and the Board were now for the first time authorised to sell the land without any reference to the Governor-General-in-Council.

(*iii*) The above accounts show that the treatment by the then Government accorded to the landlords was far from generous. Most of the lands were lying uncultivated at the time of the Permanent Settlement. It was therefore the interest of the landlords to see that these lands were brought under cultivation at an early date. It was

against the interest of the landlords to treat the tenants harshly. The tenants had been habitual defaulters from time immemorial. Even in the Moghul times the Government looked up to the so-called Collectors of rents for punctual payments of revenue. This arrangement was made knowing full well that the tenants would not pay up their rents regularly and to ensure payment at stated intervals it was necessary that one person having interest in the land and stake in the country should be made liable for punctual payment of the Government dues without regard to the fact as to whether he was able to collect the rent punctually or not. The same principle seems to have been adopted at the time of the Permanent Settlement. The relation between zamindar and tenant was always cordial as welfare of the landlords depended entirely on the welfare of the tenants. It may be that immediately after the Permanent Settlement some pressure was brought to bear upon the landlords by the Government to pay up their dues regularly. In our part of the country the landlords have always treated the tenants with great kindness and moderation. Up to this day the landlords generally take no steps against the tenants unless 4 years' rents become due and thereafter though a suit for rent is instituted and a decree obtained, the landlord tries every means of realising the decretal amount amicably and it is only on the failure on the part of the tenants to pay up the dues amicably that the decree is put into execution almost when the period of limitation (3 years) is about to expire. In this way though the landlords have to pay up their dues punctually to the Government they do not get rent from the tenants at the proper time and in many cases 7 or 8 years after it has become due. If this is not generous treatment my Association does not know what it is.

Regarding enhancement of rent the statistics collected by the Land Revenue Commission shows that the incidence of rent per acre of raiyati land Rs. 3 in permanently settled estates, whereas in khas mahal it is Rs. 4-11 per acre and in temporarily settled estate it is Rs. 4-6 per acre. This fact shows that the landlords who are enjoying the benefit of the Permanent Settlement are far more generous towards the tenants than the Government.

The landlords established hats and bazars for marketing the produce of their tenants. They excavated tanks and reservoirs of water to afford irrigation facilities and providing the tenants with good drinking water. They have remitted the rents of tenants in the years of famine and scarcity. They have established schools, dispensaries and post offices for the benefit of the public. They have constructed roads, pathways and have liberally contributed money and granted land to the district and local boards and municipal corporations for the purpose. My Association has tried to collect a list of benefactions of the zamindars from contemporaneous newspapers from 1818 to 1840 which is appended herewith.

List of Donations.

Names of Donors.	Purpose.	Amount.	Published in.
		Rs.	
1. Maharaj Baidya Nath Ray Bahadur.	Female education ..	20,000	Samachar Darpan on 31-12-1825.
2. Kasi Kanta Ghosal ..	Secondary education ..	20,000	Bengali Samachar Patra on 29-1-1825.
3. Guru Prosad Basu ..	Education ..	10,000	Samachar Darpan on 1-4-1826.
4. Raja Sib Ch. Roy and Raja Narsingha Ch. Roy.	Ditto ..	1,04,000	Samachar Darpan on 27-5-1826.
5. Raja Baidya Nath Roy ..	Ditto ..	50,000	Samachar Darpan on 5-3-1826.
6. Raja Narsingha Ch. Roy ..	Ditto ..	46,000	Samachar Darpan on 5-8-1826.
7. Guruprasad Bose ..	Ditto ..	10,000	Samachar Darpan on 5-8-1826.
8. Joynarain Ghosal ..	Primary education ..	40,000	Samachar Darpan on 24-4-1819.
9. Kalisankar Ghosal ..	Treatment of lepers and establishment of asylum.	4,000 and 12 bighas of land.	Samachar Darpan on 5-9-1818.
10. Radha Madhab Banerjee ..	Treatment of lepers and establishment of asylum.	200 and Rs. 50 yearly.	Samachar Darpan on 5-9-1818.
11. Kashi Nath Banerjee ..	Treatment of lepers and establishment of asylum.	200 and Rs. 50 yearly.	Samachar Darpan on 5-9-1818.
12. Subscription raised for flood affected area at Bakargunge.	Help ..	30,000, 700 bags of rice, equal amount of groceries.	Samachar Darpan on 29-6-1822.
13. Zamindars of Calcutta ..	Help in famine-stricken area in Ireland.	40,365	Samachar Darpan on 12-10-18221.
14. Maharaj Jites Ch. Ray Bahadur.	Opening a market and constructing a pucca bridge over river Bankeswari.	....	Samachar Darpan on 17-7-1819.
15. Maharaj Jites Ch. Ray Bahadur.	Excavating rivers Khari and Gour and connecting them with Bankeswari.	....	Samachar Darpan on 21-8-1819.
16. Raja Baidya Nath Ray Bahadur.	Hospital ..	30,000	Samachar Darpan on 31-12-1825.
17. Kalinath Ray Chowdhury and Baikunthanath Ray Chowdhury.	Construction of roads at Taki.	1,00,000	Samachar Darpan on 30-6-1832.
18. Kalinath Ray Chowdhury and Baikunthanath Ray Chowdhury.	Education ..	20,000 yearly and 3 large buildings.	Samachar Darpan on 30-6-1832.
19. Zamindars of Baranagar ..	School founded ..	....	The Englishman on 29-6-1839.
20. Rajkrishna Ray Chowdhury and Pran Krishna Ray Chowdhury of Panihati.	Ditto ..	....	Caleuriara on 23-1-1836.
21. Subscriptions ..	For a school at Midnapore	....	Jnananweshan on 26-7-1834.
22. Maharaja of Burdwan ..	Ditto ..	1,000	Samachar Darpan on 9-8-1834.
23. Zamindars of Murshidabad	Ditto ..	....	Samachar Darpan on 27-10-1837.

List of Donations—*continued.*

Names of Donors.	Purpose.	Amount.	Published in.
		Rs.	
24. Maharaja Rajnarain Bahadur of Andul.	School founded ..	....	Samachar Darpan on 28-7-1838.
25. Raja Baidyanath Ray ..	Education ..	50,000	Samachar Darpan on 9-1-1836.
26. Narsingha Ch. Ray ..	Ditto ..	20,000	Samachar Darpan on 9-1-1836.
27. Kalisankar Ray ..	Ditto ..	20,000	Samachar Darpan on 9-1-1836.
28. Banwarilal Ray ..	Education ..	30,000	Samachar Darpan on 9-1-1836.
29. Guruprosad Ray	Ditto ..	10,000	Samachar Darpan on 9-1-1836.
30. Harinath Ray ..	Ditto ..	20,000	Samachar Darpan on 9-1-1836.
31. Siva Ch. Ray ..	Ditto ..	20,000	Samachar Darpan on 9-1-1836.
32. Raja Tejesh Ch. Bahadur of Burdwan.			
33. Sreemati Bala Bai ..			
34. Sreemati Begum Samaru ..			
35. Raja Sukhomoy Ray ..			
36. Raja Patani Mull ..			
37. Raja Sibchandra Ray ..			
38. Raja Nrisingha Ray ..	4 bridges of iron structure, 86 brick-built bridges. 70 roads some of which extending over 24 or 28 miles. 412 tanks. 107 ghats. 15 serais.	....	Government Report, dated 5-3-1835 and Samachar Darpan on 4-4-1835.
39. Hakim Mendi Ali Khan ..			
40. Mitrajit Singha ..			
41. Raja Krishna Chandra ..			
42. Raja Ananda Kishore Sinha			
43. Raja Joyprokas Sinha and 4 others.			
44. Kalikinkar Palit ..	Road from Hughli to Dhaniakhali.	6,000	Samachar Darpan on 9-2-1839.
45. Sm. Prankumari Zamindar of Rangpore.	Bridges between Dinajpore and Titalia.	10,000	Samachar Darpan on 21-12-1839.
46. Haji Md. Mohsin ..	Imambara Hospital, Madras, school and seral.	7,50,000 and a market, the yearly income of which is Rs. 50,000.	Samachar Darpan on 13-6-1832.
47. Dwarkanath Tagore ..	District Charitable Society.	1,00,000	Samachar Darpan on 10-2-1838.
48. Matilal Shil ..	Maternity Home ..	1,00,000	Samachar Darpan on 22-2-1840.
49. Maharaja of Burdwan ..	Hospital ..	7,000	Samachar Darpan on 15-8-1835.
50. Zamindars of Bengal ..	Ditto ..	15,000	Samachar Darpan on 20-6-1835.
51. Donations ..	Ditto ..	27,362	Samachar Darpan on 22-8-1835.
52. Dwarkanath Tagore ..	Medical School ..	2,000 and Rs. 2,000 for 3 years.	Samachar Darpan on 23-4-1836.

List of Donations—*concluded.*

Names of Donors.	Purpose.	Amount.	Published in.
		Rs.	
53. Dwarkanath Tagore ..	Started a Steam Navigation Co. and also for charity.	500 each ..	Samachar Darpan on 4-9-1833.
54. Ram Kamal Sen ..			
55. Biswabhar Sen ..			
56. Matilal Seal ..			
57. Raja Kali Krishna Bahadur			
58. Kanailal Tagore ..			
59. Gopal Lal Tagore ..			
60. Mathuranath Mullik ..	Charity ..	1,000	Samachar Darpan on 4-9-1833.
61. Kumar Banamali Lal ..	For watering Chitpore Road.	20,000	Samachar Darpan on 16-1-1933.
62. Ramandas Mukherjee, Zamindar of Ula.	Bridge and Road ..	1,200	Samachar Darpan on 11-1-1834.
63. Sambhunath Mukherjee ..	Ditto ..	1,000	Samachar Darpan on 11-1-1834.
64. Isvar Ch. Mustafi ..	Ditto ..	1,000	Samachar Darpan on 11-1-1834.
65. Amritapran Mustafi ..	Ditto ..	1,000	Samachar Darpan on 11-1-1834.
66. Maharani Kamal Kumari and Dewan Ram Ch. Labu.	Public work ..	45,000	Samachar Darpan on 28-9-1833.
67. Maharaja Banwarilal of Birbhum.	Road extending over 40 miles and bridges.	....	Jnananwesan on 17-12-1836.
68. Dwarkanath Tagore ..	District Charitable Society.	500	Samachar Darpan on 8-4-1937.
69. Bejoy Gobinda Sinha ..	....	....	Samachar Darpan on 22-9-1838.

Q. 4. The proposition enunciated in the first portion is not correct. That the zamindars were the actual proprietors of the soil before the Permanent Settlement admits of no doubt, but the term "proprietors" was not understood in the Muhammadan times in the sense in which it is used now. A despotic Government used to oust by force those persons who might have absolute right but who acted against the apparent interest of the State. These persons had no means or machinery by which they could enforce their rights against the State. Hence there has been much confusion in understanding the real rights of zamindars, chowdhuris and other persons of the same class.

In Hindu times the headman of a village was called a "*gramani.*" This "gramani" collected the State share of the produce and had important military and police functions. The "gramani" had a share of the king in food drink, wood and other articles as his perquisites; above him were the superintendent of the villages who was to have the produce of two plough lands, the superintendent of 20 villages who was

to have the produce of 5 villages and so on. All lands belonged to the Crown. But the village headman had interest in the village which was entrusted to his charge. The office of the headman was hereditary. He could not be dismissed by the State except for the failure to make good the revenue assessed upon the village and for the due payment of which he was responsible. In fact he was in something like the same position as the zamindar subsequently. There are instances of the sale of the office by the occupant (Land Tenure by a Civilian, pages 33, 76 and 78). The pargana or bishon was the smallest official fiscal division consisting of a number of villages administered by a chaturdhurina or chowdhury (literally holder of fourfold burden) so called because he had four functions to perform namely, military, police, fiscal and judicial.

In Kautilya's time all the lands belonged to the Crown. Other persons having different interests in the same. The Collector-General divided the villages in four classes, some of which provided military contingents, some paddy, beasts and gold, some forest produce and the others other necessary materials. One superintendent was placed over five to ten villages, another kept the accounts, all being subordinate to a divisional officer of the king. If a tenant did not cultivate the land he could be ejected from his holding. The superintendent, the accountant and others got lands as their remunerations and the offices were generally hereditary.

In the Vedic age the head of the family appears to have been the owner of the property of the family. Land was owned by individuals or families; in one hymn of a maiden, Apala by name, places her father's cultivated field on the same level with his hair as a personal possession. During the Brahmana period, the commoner had no legal right to his landholding or to his private property if the king decided to take them from him, and if he was allowed to retain them he paid for them in tribute and in the duty of supporting others. This refers, no doubt, to the king's privilege of assigning to his nobles the right to receive food from the common people and thus of making provision for the maintenance of the nobility, who assisted him in the protection of the country and in the administration and conduct of justice. By this means the nobles came more and more to occupy the position of the landholders under the kings, while the vaisyas approximated to the position of tenants. Moreover the nobles may well have received from the king, as a result of successful onslaughts on the aborigines, grants of conquered lands and slaves, which they held in full proprietorship, subject to the political authority of the king. Among the vaisyas again distinctions were growing up; originally agriculture was carried on by Aryan tillers, but in the period of Brahmans the position was gradually changing; and for the peasant working in his own fields, was being substituted the landowner cultivating his estates by means

of slaves. (Cambridge History of India, Volume I, page 128.) These nobles were the origin of the zamindars.

In the early Buddhist period, we meet with a peculiar tenure called Rajabhoga of which something will have to be said later on. The rural economy of a part of India as this period was based chiefly on a system of village communities of landowners. The village headman was called the Gamabhajaka who took the place of gramanis. Big estates are often mentioned in the Jatakas framed by Brahmanas who employed hired men to guide plough and oxen.

Gautama and Jajnavalkya clearly recognise ownership in land of persons other than the cultivator.

During the Pal dynasty the zamindars were known as Rajanaks. Some of them like Ichhai Ghose of Dhequr and Lau-Sen of Moyna were very powerful. The Rajanaks are mentioned in copper plate grants of the Pal and the Sen dynasties.

On this subject the following extract from the Fifth Report is deserving of attention:—"It is represented by the Board of Revenue in their report in favour of the village system of rent that it was as old as the age of Manu; but if by this be meant that such a mode of settlement was in conformity to the general and settled practice of the Hindu Government, the fact appears to be at variance with such information as the Committee have been able to collect in their enquiries upon their subjects. The usual course pursued by them for the realisation of their territorial revenue appeared to have been to collect it from those having an interest in the cultivation of the soil, either in proprietary right or as tenants through the medium of their own officers." (Fifth Report, Volume II, p. 113.)

Coming to the Muhammadan times the Muhammadan system of Government sems to have been a non-hereditary system while the Hindu system was essentially hereditary. Sir George Campbell says—"The Muhammadan system was quite non-hereditary, I may say anti-hereditary." (Cobden Club Essay, p. 152). One result of this difference between the two systems appears to have been that a long struggle between the opposing principles took place; the Hindu clinging to the hereditary principles, the Muhammadans seeking to cut it down as much as possible; and where it proved too strong for them, insisting at least upon the formal recognition of the principle of choice; for instance by requiring the acceptance of a sanad and the payment of fees on succession in many cases. (Phillip's Land Tenures, p. 42.)

According to the Muhammadan theory, the Sovereign was considered the original proprietor of the land and he received a share of the produce but when this share was commuted into a fixed money rent, he ceased to be a proprietor. (Baillie's Land Tax XVII.) The Ain-i-Akbari says, "In former times the monarchs of Hindustan exacted the

sixth of the produce of the land; in the Turkish Empire the husbandman pays the fifth, in Tooran the sixth and in Iran, the tenth. But as the same time there was levied a poll tax which was called khiraj. Cobad disapproved of this arbitrary mode and intended to have made a measurement of all the arable land in his empire for the purpose of ascertaining an equitable fixed revenue. He, however, died before he could carry this intention to execution, but his son Nowsheervan adopted his plan and instituted a land measure of 60 square kissery gaz and computing the produce of such a quantity of land to be a kefeez valued at 3 darhams. He determined that the third part should be the proportion of revenue. The Muhammadan make 3 distinctions in conquered lands, asheree, khirajee and sulhee. The asheree and khirajee are each subdivided into 5 kinds and the sulhee into 2..... In every kingdom besides the land tax Government exacts something from the property of every individual and there are some taxes as well..... His Majesty abolished all abitrary taxes, he settled the gaz, the tanab and the bigha, after which he ascertained the value of the land and fixed the revenue accordingly."

Akbar abolished all arbitrary taxes and prepared a scheme to assess the revenue on the true capacity of the land. For this purpose the lands were divided into 4 classes—(1) *Pullaj* land which was cultivated for every harvest, (2) *Peroti* land allowed to lie fallow for a short time to recover its strength, (3) *Chechor* land or land which had laid fallow for 3 or 4 years from successive rains or inundation, (4) *Bunjer* land or land which had lain fallow for 5 years or upwards from the same causes. In the Appendix to the Fifth Report it is stated that there were several rates for assessment. If the revenue were paid in kind, the Government share of the ordinary crop was one-half, one-third was taken of crops grown out of season or artificially irrigated and one-fourth to one-eight of crops difficult to cultivate. But it is said that all those might be commuted for a fixed money payment of one-fourth of the gross produce estimated by taking an average of the different kinds of lands irrespective of the actual crop cultivated. The cultivator may choose to pay either in kind or in money but he was bound to make his choice of the two methods and to adhere to one of them. Though this method was never fully adopted in Bengal, it was advised to put a limit to the zamindari demand and not to do away with his right altogether.

"A zamindar," said Mr. Harington, "appears to be under the Moghul constitution and practice, a landholder of peculiar description not definable by any term of our language; a receiver of territorial revenue of State from the raiyats and other under-tenants of the land; allowed to succeed to his zamindari by inheritance; yet generally required to take out a renewal of his title from the Sovereign or his representative on the payment of a fine of investiture to the Emperor

and the nazarana or a present to the provincial delegate, the Nazim; permitted to transfer his zamindari by sale or gift yet commonly expected to obtain previous special permission; privileged to be generally the annual contractor for the public revenue received for his zamindari, yet set aside with a limited provision in land or money when it was the pleasure of the Government to collect the rents by separate agency, or to assign them temporarily or permanently by the grant of a jaigir or altamgha; authorised in Bengal since the early part of the 18th century to apportion to the pargana, village and lesser divisions of lands within his zamindari, the abwabs or cesses imposed by the Subedar usually in some proportion to the standard assessment of the zamindari established by Todar Mal and others, yet subject to the discretionary interference of public authority either to equalise the amount assessed or particular divisions or to abolish what appeared oppressive to the raiyats; entitled to any contingent emoluments proceeding from his contract during his period of agreement, yet bound by the terms of the tenure to deliver in a faithful account of his receipts." (Harington's Analysis, Vol. III, p. 400.)

We read in the Ain-i-Akbari that the zamindars of Bengal were mostly Kayasthas by caste, that the militia force in the province consisted of 23,330 cavalry, 801,150 infantry, 1,170 elephants, 4,260 guns and 4,400 boats and that the revenue of Bengal including Orissa was about Rs. 15,00,000. "Speakers and writers on Indian subjects," wrote the late Mr. R. C. Dutt, "sometimes make the mistake of supposing that the zamindars were mere middlemen and rent collectors under the Muhammadan rulers and that they were raised to the status of landlords in the English sense of the word by Lorn Cornwallis. This is not the fact. Zamindars have not only been *de facto* landlords but also *de facto* rulers within their own estates since the dawn of history. They performed the same useful and necessary part in the history of Bengal previous to the British Rule, that the Barons of Europe performed or were supposed to perform in the Middle Ages. They preserved peace and order within their own estates, repressed crimes and punished offenders, adjudicated cases and protected labourers and cultivators and represented and maintained the royal authority and influence. This system of administration was no doubt rude, their exercise of power was often arbitrary, and their forces were often engaged in warring with each other as was the case in Europe down to the 18th century. But in spite of all these, the zamindars of Bengal played a useful and necessary part in the history of those times; they maintained order in the interior where the King or the Subedar had no means or agency to preserve the peace; they settled disputes, adjudicated cases and punished crimes; and they encouraged learning and arts in their courts. The literature and the traditions of Bengal reflect to this day the position and influence which zamindars owned in the

political and social economy of the province. (Fourth letter to Lord Curzon, dated the 25th April 1900.)

Mr. Francis, in a plan of settlement, dated the 22nd January, 1776, asserts that "the land is the hereditary property of the zamindars. He holds it by the law of the country and tenure of paying a certain constitution to Government." And again "the inheritable quality of lands is alone sufficient proof that they are the properties of the zamindars, talukdars and others to whom they have descended by a long course of inheritance. (Harington's Analysis, Vol. III, p. 368.) The Royroyan says:—"The zamindars of a middle and inferior rank such as those of Muhammad Amirpur, Sarfarazpur, etc., and the talukdars and moozkoories hold their lands to this day solely by virtue of inheritance; whereas the superior zamindars such as those of Burdwan, Nadia and Dinajpur, etc., after succeeding to their zamindaris on the ground of inheritance are accustomed to receive on the payment of a nazarana, peshkash, etc., a dewani sanad from Government. In former times the zamindars of Bishenpore, Pachete, Birbhum and Roshanabad used to succeed in the first instance by the right of inheritance and by the established practice of their respective families; and to solicit afterwards as a matter of course a confirmation from the ruling power." (Harington's Analysis, Vol. III, p. 341.)

Mr. Shore in a Minute of 8th December 1789 says:—"The most cursory observation shows the situation of things in this country to be singularly confused. The relation of zamindar to Government and of a raiyat to a zamindar is neither part of a proprietor nor that of a vassal but a compound of both. The former performs the act of authority unconnected with the proprietary right; the latter has rights without real property; and the property of the one and the rights of the other are in a great measure held at discretion. Such was the system which we found; and which we have been under the necessity of adopting. Much time will, I fear, elapse before we can establish a system perfectly consistent in all its parts; and before we can reduce the compound relation of a zamindar to Government and of a raiyat to a zamindar to the principles of landlord and tenant. (Harington's Analysis, Vol. III, p. 398.)

Mr. Harington remarks: "In truth this is the principal source and origin of whatever confusion really exists in the discussions which have taken place relative to the tenures of land in India. It is by attempting to assimilate the complicated system which we found in this country with the simple principles of landlord and tenant in our own, and specially in applying to the Indian system terms of appropriate and familiar signification which do not without considerable limitation properly belong to it, much if not all of the perplexity ascribed to the subject has arisen. If by the terms "proprietor of land" and

"actual proprietor of the soil" be meant a landholder possessing full rights of an English landlord or freeholder in fee simple, with equal liberty to dispose of all the lands forming part of the estate, as he may think most for his own advantage; to oust his tenants, whether for life or for a term of years, on the termination of their respective leaseholds; and to advance their rents on the expiration of leases at his discretion; such a designation, it may be admitted, is not strictly and correctly applicable to a Bengal zamindar; who does not possess so unlimited a power over the khudkasht raiyats and other description of under-tenants, possessing as well as himself certain rights and interest in the lands which constitute his zamindari." But Col. Wilks, with a view to guard against this ambiguity of expression, has defined the sense in which he proposes to use the word "proprietor" as follows:—"In England a proprietor of land who farms it out to another, is generally supposed to receive as rent a value equal to about one-third of the gross produce. This proportion will vary in different countries according to circumstances; but whatever it may be, the portion of it which remains after payment of the demands of the public may safely be described as the proprietor's share of the produce of his own land; that which remains to him after defraying all public taxes and all charges of management—whatever we can find this share and the person entitled to receive it, him we may without any risk of error, consider as proprietor; and this right has descended to him by fixed rules from his ancestors, as the hereditary proprietor." According to this definition, it cannot, I think, be denied that a zamindar is in a restricted sense as an hereditary proprietor. His zamindari descends to his legal heir by fixed rules of inheritance. It is also transferable by sale, gift or bequest. And he is entitled to a certain share of the rent produce of his estate, if it be taken out of his management; or if he manage it and engage for the public assessments, he receives whatever part of the rent may remain after paying the assessment and defraying the charges of management. It must, however, be allowed that the peculiar tenure of a zamindar, as it existed under the Mussalman Government of Bengal and the adjacent provinces (especially with regard to the principal zamindars who held their zamindaris with certain services attached to them under a sanad, or grant of confirmation) partook more of a nature of an hereditary office with certain rights and privileges attached to it, than of a proprietary right in an estate; though it is justly observed by Mr. Rouse that "if the zamindari be even an office and such office given possession of land, which has by claim or custom descended from father to son or to collaterals, with other circumstances incident to property such as mortgage, alienation bequest or adoption, it is in reality a landed inheritance." (Harington's Analysis, Vol. III, p. 398-400.)

Mr. Grant in his Political Survey of the Northern Circars published on December 20, 1784, attempted to show that the zamindar was

merely a temporary official and that the right of property in land vested absolutely in the State. This interpretation was adopted by the Commitee of Revenue in 1786. Later, however, in the same year the new Board of Revenue revoked the policy of the defunct Committee (*see* letter issued by the Board of Revenue on July 18, 1786) and in a Minute written on April 2, 1788, Mr. Shore attacked Grant's views vigorously. "The rents," he wrote, "belonged to the Sovereign, the land to the zamindar." Mr. Grant wished to show that the zamindar had no permanent right whether as proprietor of the soil or as an official who collected and paid the rent; for proof he pointed to the policy of Murshid Kuli Khan. In this he was clearly wrong; during the Moghul period all offices had tended to become hereditary and accordingly permanent, and the history of zamindari development in Bengal clearly shows that the zamindar was removable only by force or fraud. There are sanads which show that the dispossessed zamindars had right to receive an allowance from their estates. This clearly implies an interest greater than that of a temporary official removable at will.

My Association may mention here that Statute 24 George III Cap. 25 known as Pitt's India Act was passed in 1784. The 39th section of this Act required the Court of Directors "to give orders for settling and establishing upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which the tributes, rents and services of the rajas, zamindars, polygars, talukdars and other native landholders should be in future rendered and paid to the United Company." This shows that the Parliament decided at the time that the zamindars and talukdars were landholders and that they paid rent to the Company and it might be rendered by services also. This was a Parliamentary decision and neither the Court of Directors nor the Indian Legislatures had power to go behind it and the declaration made in it that the rajas and talukdars were landholders and paid rents was binding on them as it is on the present legislature. In our opinion it would thus be futile to enquire at the present state whether zamindars or talukdars and other landholders had interest in the land they held.

It may be pointed out here that on December 20, 1757, a second treaty was concluded with Mir Jaffar, then Nazim of Bengal, confirming the earlier treaty of February 9, and extending the area granted to the Company over a tract of 882 sq. miles known as the 24-Parganas. This grant which was comprised by a sanad of the Dewan in 1758 gave the Company the right of a zamindar over this tract on the payment of an annual revenue of Rs. 2,22,958 to the Nazim. This grant gave no Sovereign power and placed the Company under the Nazim as a landholder. It is admitted on all hands that by that grant the Company acquired the proprietorship of the 24-Parganas. If that is so, we fail

to see why the other landholders should be considered as mere office-holders.

Before the Permanent Settlement, as has been pointed out by Mr. George Campbell, there existed various tenures under the zamindars, known as dependent taluks, grantees, howalas, and other fixed and transferable under-tenures; their interests were recognised and protected at the time of the Permanent Settlement (see Campbell's Bengal Administration Report, p. 79.) This very fact shows that the zamindars or proprietors were proprietors from before and created these under-tenures which also possessed interest requiring protection.

Mr. Shore describes clearly and forcibly what he understood to be the rights of the zamindars of Bengal. "I consider the zamindars as the proprietors of the soil, to the property of which they succeed by right of inheritance, according to the laws of their own religion and that the Sovereign authority cannot justly exercise the power of depriving them of succession or of altering it when there are any legal heirs. The privilege of disposing of land by sale or mortgage is derived from this fundamental right and was exercised by the zamindars before we acquired the Dewani. Despotism would extend its claim to the subversion of the rights of the zamindars without an avowed and direct infringement of them but its practice generally speaking has been in favour of them. The zamindars of Bengal were opulent and numerous in the reign of Akbar and they existed when Jaffar Khan was appointed to the administration under his successors. Their respective territorial jurisdictions appeared to have been greatly augmented and when the English acquired the Dewani the principal zamindars exhibited the appearance of opulence and dignity (paragraphs 370 and 382 of the 5th Report).

The only person of note who struck a discordant note as pointed out before was Mr. James Grant. Mr. Seton Karr writes, "The celebrated Analysis of the Finances of Bengal by Mr. James Grant contains an enormous mass of information, though the conclusions are often unsound and the deductions untrustworthy" (p. 28). Mr. James Grant was the sheristadar or keeper of the records. His arguments were effectively answered by Sir John Shore and need not be recapitulated here.

Such evidence as my Association has been able to gather from contemporaneous literature also points to the same conclusion. The Bengali literature of the period is vast and an attempt to give an extract of the various references of each book would be beyond the scope of the present note. We shall only mention as an illustration one well-known book, namely, the Kabikankan Chandi. The author Mukundaram mentions that he was an inhabitant of Daminya where he used to cultivate lands in the taluk of Gopinath Neogi. When Mansigh

became the Governor of Bengal one Mahmud Sharif became the landholder of the area and he began to oppress the tenants so much that Mukundaram had to fly from the country, penniless and starving. He reached the Brahmanbhum pargana in the district of Midnapore where Banku Ray was the zamindar, Mukundaram was employed as the tutor of his son Raghunath and under his patronage he composed the famous poem. The description in the book goes to show that the zamindars were virtually independent within their own jurisdiction.

The ancestry of some of the big zamindars of Midnapore may be traced far back to the Muhammadan times. The Raja of Bogree claimed an ancestry dating back to 1165 A.D. His zamindari was, however, confiscated by the British Government for his alleged complicity in the Chuar rebellion. The zamindari of Belaberia was founded by Nimai Chand Paharaj who flourished in the 15th century A.D. The zamindari of Brahmanbhum pargana was founded so far back as 850 A.D. by one Umapatideb Bhattacharya. The zamindari came to an end in 1761 A.D. when it was absorbed by the Burdwan Raj. In the Tujjuk-i-Jahangiri one Haribhan, who was the zamindar of Chandrakona, is mentioned as a rebel. The zamindars of Jalamutha claimed their ancestry from Ramchandra Chowdhury who held his zamindari between 1694 to 1734. The zamindars of Moyna claimed their descent from Raja Lou Sen of whom we have spoken before. The Rajas of Tamluk date their ancestry from Kalu Bhunia who flourished in the fourth century A.D. The history of these zamindars shows that they were proprietors of soil and not collectors of revenue merely.

The permission granted by the Emperor Aurangzeb to the English to purchase Cuddalore and other towns shows that there was a right of property which was acquired by the English. The farman from the Emperor Ferrukseer in 1717 contains the following terms amongst others: "The Company's factories established in Calcutta and the sum of Rs. 1,195-6 is annually paid on account of the rents of the talukdars of Calcutta, Sutanati and Govindapore, formerly procured from the zamindars, be pleased to grant 38 villages more, situated near the former at the annual rent of Rs. 8,121-8 which shall be regularly discharged. The orders of the villages formerly purchased are confirmed as before; and we have bestowed the talukdari of the additional 38 villages but let them purchase them of the proprietors." The *husbool hukum* of the Vazir in conformity to the above expressly directs that the purchase of the 38 villages must be made agreeable to former precedent with the consent of the proprietors. (*Vide* Report of the Select Committee in 1772 quoted in Harington's Analysis, Vol. III, p. 308.) Instances of sales of zamindaris have been quoted in the said volume.

The following is an extract from history compiled by order of Mr. Vansittart when Governor of Bengal:—"Jaffar Khan (then Nazim),

knowing that upon the demise of the officers of the Crown, that is to say, the Munsabdars and Omras, their effects were sequestered with utmost rigour, with a view to provide for his grandson Sarfaraz Khan, purchased the zamindari of the town of Murshidabad and Kismat Chuna Colly from Mohamed Aman, the talukdar with the produce of his jagir; and named it Asad Nagar, and had it enrolled in the royal registers and those of the Kanungos, that after the decline of his fortune a pittance might be left from the profits of the land after discharging the royal rents for the subsistence of his descendants." (Quoted in Harington's Analysis, Vol. III, p. 309.)

Mr. Shore has also quoted many instances of the inheritance of zamindari tenures in Appendix No. XV to his Minute (Harington's Analysis, Vol. III, p. 310).

Gholam Hossein Khan, formerly Nazim of Bihar and holder of many important posts and the author of Seir-ul-Mutakherin was asked directly the question "What is a zamindar and what is a zamindari?" He gave the following characteristic answer—"The literal meaning of the word 'zamindar' is possessor or proprietor of land; in the same manner as 'maldar' signifies possessor of property or 'zardar' possessor of money; but in its general accepted meaning it implies the proprietor of land who pays rent to the Emperor or any other ruler, and is equally applicable to every landholder, whether possessing a greater or less number of villages or only a portion of a village. Land being a species of that property which is deemed transferable in all countries, the proprietorship of it may be obtained in the same manner as that of any other property of a similar nature, by gift, sale or inheritance. The true and rightful proprietorship of land may be obtained by either of the three following modes:—by purchase, with mutual consent of the parties; by gift from the proprietor; or by inheritance". (Appendix No. 16 to Mr. Shore's Minute.) He was put many other searching questions regarding the rights, duties, and privileges of the zamindars. These are to be found from pages 315 to 346 (Harington's Analysis, Vol. III). The replies clearly show that the zamindars were the real proprietors of the soil.

Royroyan was also asked the question, "What is a zamindar and what is a zamindari?" His answer was "A zamindar is a person possessing hereditarily on the condition of obedience to the Ordinances of the Government a tract of land under the denomination of a pargana or a chukla subject to the payment of revenue; and a zamindari is that land registered in the records of Government in the name of such person." He was also asked the question "Is the property of the soil vested in the king, zamindar or the raiyat?" His answer was, "The Sovereign is the proprietor, as well of the revenue as of the country; and as the revenue arises from the land he is so far the proprietor of the

soil also. In consequence of paying the revenue, of submitting to the authority of the Sovereign, and of succeeding to the inheritance of a zamindari by lineal descent, with power of alienation by gift or sale, a zamindar becomes the proprietor of the lands of his own zamindari. A raiyat being a tenant, holding under a patta and possessing no authority to sell or give away, has consequently no property in the soil." (Appendix No. 17 to Mr. Shore's Minute.)

Q. 5. The first point to be dealt with is the contention that the Permanent Settlement was a pledge to which the tenants were not parties. After all, the Permanent Settlement was a settlement by the Government in favour of persons who were zamindars from a very long time. My Association does not see why the tenants need be party to such a settlement. Even if it be assumed for the sake of argument that the zamindars had no right to the soil, then the Crown had every right to part with some of its interest in favour of an intermediate person on whom some special rights and obligations may be conferred. As the tenants' rights, if any, are not being taken away or interfered with, they would be bound to pay rent to the intermediate holder who derives his interest not from the tenants but from the Crown. The rights of the zamindars being part of the rights of the Crown are superior to those of the tenants and the tenants cannot, under any system of jurisprudence, annual or seek to interfere with the rights of the superior holders. The Permanent Settlement being a pledge given by the Crown to the zamindars on many occasions can be annulled only by mutual consent. The present Government being the successors-in-interest of the previous Government as well as the East India Company cannot annul or revoke the pledge without the consent of the zamindars. Besides this, the Government entered into contractual obligations with the zamindars as provided by section 67 of Regulation VIII of 1793. Hence it is not possible for this Government which is bound by contract to rescind it without the consent of the zamindars.

As to the contention that the Permanent Settlement was a measure which permanently crippled the financial resources of the country, my Association needs only point out that the Government of that time made the pledge and entered into the contract with its eyes wide open. Sir John Shore took strong exception to the undertaking to make the proposed settlement permanent on the expiry of 10 years' time. His arguments developed from his previous Minute of June 18, 1789; he maintained that the period of 10 years would be fully adequate to enable the zamindars to attend to the development of their estates; he feared that a Permanent Settlement would only tend to perpetuate the abuses which might otherwise be abolished at the end of 10 years, time. "I am not sure," he added, "that the plan will be executed with

such ability as to justify a recommendation of its confirmation in perpetuity." Lord Cornwallis replied in his Minute of September 18, 1789, that a ten years' lease would be equivalent to a farming and that it would not be sufficient to ensure the clearance of the extensive jungles of Bengal which he estimated at one-third of its area, if the zamindars had still to fear additional assessment at the end of the period. In his Minute of February 3, 1790, Lord Cornwallis expressed the opinion that the profits of zamindars would increase so rapidly that the Government revenue would be fully safeguarded even against the effects of drought and famine. The ability of the proprietor to dispose of his lands at will would consolidate his position and the power to sell or mortgage would safeguard the interest of Government; the disappearance of the bad landlord would be a positive advantage to the country. He maintained that the Government must retain the power of interfering in the relation between the landlord and the tenant; even more, if Government did not interfere natural economic laws would come into operation; the raiyat would desert his land and the landlord would suffer. (5th Report, pages 483—493.)

My Association has already pointed out that the assessment at the time of the Permanent Settlement was as severe as could possibly have been made. The amount realised in 1790-91 was double the assessment of Jaffar Khan and Shuja Khan, 3 times the collection of Maharaja Nanda Kumar in 1764-65 and about double the collections made by Reza Khan in 1765-66 though about half the lands were lying waste at the time. Roughly speaking the land revenue of Bengal, Bihar and Orissa demanded from the zamindars by the Government of Akbar, but perhaps never fully collected, was about 2 crores of rupees. The land revenue of the same provinces actually collected in 1897-98 was nearly 4 crores of rupees. The zamindars submitted to such heavy assessment only on account of the solemn pledge that assessment would be made permanent. Can the Government now turn round and say that the Permanent Settlement ought to be scrapped because it has crippled the financial resources of the country?

The policy of Lord Cornwallis in fixing for ever the land tax payable to Government was a matter of necessity and the despatch of the Court of the Directors, dated the 29th of September 1792, endorsing the Governor-General's view was in accordance with the spirit of the age and the views of the Parliament as contained in Pitt's India Act. The necessity of paying the great military and civil establishment of the Company and the expenses of the Mysore and Carnatic Wars and the dividends payable to the proprietors (which had been greatly enhanced) required the punctual realisation of the land-tax and the amount needed was large. To avoid fluctuation and ensure punctual realisation, some means was absolutely necessary to be adopted and the

Government adopted not only the best but the event shows the most successful one (S. C. Mitra's Land Laws of Bengal, 1st edition, page 88). The same authority goes on to say "Financiers in India now regret that there was this Parmanent Settlement as the zamindars of the present day make large profits. That some of them do make some profits is undoubted. A good many of them, however, derived title by purchase, *i.e.*, outlay of large capitals. These financiers think that it is the State and not the zamindars who should have profited by the increase of the cultivated area in Bengal and the more manifold increase in the value of the produce. But they forget that the East India Company would have been reduced to bankruptcy if they had not adopted the principle of Permanent Settlement; they forget that the vested rights of a large number of zamindars required Permanent Settlement and that taking all things into consideration the State has not suffered" (page 92).

On the faith of the pledge given at the time of the Permanent Settlement, many inhabitants of Bengal have invested many crores of rupees in purchasing zamindari rights in properties, some of them paid as much as 40 times the profits at the time of purchase. If the Government now resile from their solemn pledge, its credit would be gone forever and no one will feel secure under such a Government. The G. P. Notes will be greatly depreciated in value and capitals will be shy and fly out of the province. The Government who derived large benefits from the Permanent Settlement cannot now turn round and say that the Permanent Settlement should be annulled. The landlords after entering into engagements with the Government made vast improvements in their estates, excavated tanks, wells, reservoirs, constructed roads, established hats and ganjas and did many other works for the improvement of their estates. In doing these they have laid out vast sums of money on the faith of the pledge given to them by the Government. After all, what would have the Government done if they had realised the profits made by the zamindars? Could they have done more than what the zamindars have done? We have already in reply to question 3 given a list of some of the works done by the zamindars. If the lands had been in khas possession of the Government the margin of profits which are now enjoyed by the zamindars would have been greatly reduced in consequence of the fact that the Government would have to set up costly establisments for the purpose of realising rents from the tenants and the margin of profit available to the Government could not have been invested in works of charity, benevolence or in education, sanitation and other beneficial objects.

That the Permanent Settlement was a deliberate measure is also proved by the fact that the then prevailing feeling in England about its own land tenures, coupled with the exigencies brought on by the

revolutionary war resulted in the passing of the Statute 38 George III Cap. 60, whereby the tax on landed estate in England was perpetually fixed. English landed proprietors have since then been enjoying and appreciating the benefits of Permanent Settlement in England under the said Pitt's Act of 1798; whereas it has become a fashion for some time past to sneer at the opinions of statesmen like Lord Cornwallis, Sir Thomas Munro, Wellesley, Lord Hastings, Lord Canning, Lord Lawrence, Lord Halifax and Sir Stafford Northcote; of revenue officers of great repute such as Mr. R. K. Puckle (late Director of Revenue Settlement and Member of the Board of Revenue, Madras), Mr. J. H. Garstin (late Member of Council, Madras), Mr. J. B. Pennington (late Collector of Tanjore, Madras), Mr. H. J. Reynolds (late Revenue Secretary to the Government of Bengal, and late Member of the Legislative Council of the Governor-General of India), Mr. R. C. Dutt (late Officiating Commissioner of Orissa Division and Member of the Bengal Legislative Council), Mr. C. J. O'Donnell (late Commissioner of Bhagalpore and Rajshahi Division, Bengal), Mr. A. Rogers (late Settlement Officer and Member of Council, Bombay), Sir W. Wedderburn (late Chief Secretary to the Government of Bombay), Mr. J. P. Gordridge (formerly Officiating Settlement Commissioner, Central Provinces) and those of eminent judges like Sir Richard Garth (late Chief Justice of Bengal) and Sir John Jardine (late Judge of the High Court, Bombay) as being out of date. But the impartial students of history will occasionally turn from the made-to-order opinions of modern times to the free discussion of the past generations; to the opinions of men who watched the operation of the Permanent Settlement from the earlier period; judged its merits from the highest standpoint namely that of the happiness of the people of Bengal and recommended its extension to the other parts of India.

My Association has shown that the Permanent Settlement when it was enacted did not cripple the resources of the country. Can it be said that it crippled the resources of the country one hundred years afterwards? According to the estimate of Lord Cornwallis about one-third of the lands lay covered with jungles at that time. Still the assessment made was more than double the assessment of Jaffar Khan and Suja Khan. Therefore the assessment made by Lord Cornwallis was about four times the assessment of Jaffar Khan and Suja Khan. Therefore Lord Cornwallis must have calculated at that time the limit which the lands may yield at the future time. That this actually took place will be apparent from the following passage of the Fifth Report—"This as it was subsequently to become the limit of the resource which the Government could ever in future derive from the land, it was necessary should be fixed with the utmost accuracy." If even after such calculation and assessment the landlords have succeeded in making

some profit out of the bargain, that must have been done by their own exertions and they should reap the profit they fully deserved.

If we suppose for a moment that a man takes a permanent lease of a tract of land and by evolving a chemical formula or effecting some improvement by means of physical science succeeds in making large profits out of the land, would it be fair and reasonable that the Government should annul the lease and resume the land for the purpose of appropriating the profit to itself? Is it fair and reasonable that all sources of large profit though started under private enterprise and capital after some sort of permanent engagement with Government should be appropriated by the Government on the ostensible plea that the resources of the country should be fully utilised for the public benefit? In such cases there would be no incentive to private enterprise if the Government were to resume everything itself.

If the position is that the Crown is the absolute proprietor of the soil, and the tenants drive their interest from or are dependent upon the Crown for their interest in the land, they have no cause for complaint and are not entitled to complain if the Crown parts with a part of its interest in favour of a third party. My Association thinks it has been able to establish further that the landlords had proprietorship in the soil before the British conquest. If that is so, the tenants had already a limited interest subordinate to that of the zamindars and they can have no cause for complaint if the Crown has confirmed the proprietorship of the zamindars or conferred on them other powers and rights which the tenants did not possess themselves. They can only complain if some of their rights have been taken away by the Permanent Settlement. But those Regulations are silent about their rights and their rights were enquired into about that time and found to be precarious by so distinguished an authority as Sir John Shore.

As regards the resources of the country, what is the standard by which this should be judged? The East India Company since assumption of the Dewani had tried various means to realise rents; if had tried to realise from tenants, and employed farmers of rents; all attempts had miserably failed. They perceived the necessity of making one person responsible for the rent as they had failed to realise rents directly from tenants. When all attempts had failed and when the Government was about to be bankrupt they entered into a settlement with the zamindars which was made permanent and saved the Government from bankruptcy. The assessment was made with an eye to improvements which might be made in future; at that time it was the heaviest that could be made. Can the Government which derived so much benefit from the measure now turn round and say that the resources of the country have been crippled?

Q. 6. My Association has already pointed out that there was considerable extension of cultivation on account of the Permanent Settlement (Robinson's Land Revenue, page 29). Enquiries were instituted by the Government in 1802 to discover to what extent the cultivation has increased since the commencement of the Permanent Settlement. The increase in Dacca for a period of ten years was estimated at $6\frac{1}{4}$ per cent.; the increase, it must be remembered, had occurred during a period of prosperity. It must be remembered also that during this period every kind of pressure was brought to bear on the zamindars to realise the heavy revenue assessed and that they could not act as freely as they wished. Colebrooke writing in 1808 protested again grasping at the highest revenue and declared that "the reviving prosperity of the country, its increased wealth and rapid improvements are unquestionably due to the Permanent Settlement". Mr. Colebrooke served in India for over 40 years and had known Bengal before the Permanent Settlement and after it. There were thoughtful observers like Bishop Heber who wrote in 1826 that "in Bengal where independent of its exuberant fertility there is a Permanent Settlement, famine is unknown".

By the Permanent Settlement only one-eleventh of the rents collected from the tenants was allowed as income of the landlords. Now it is a proposition well-known to everybody that it is not possible to collect the entire rents due from the tenants in one particular year. Collection from tenants never exceeds 80 per cent. of the total and there were also the collection charges to be considered. The landlords had to pay to the Government about 91 per cent. of the total rental to be collected from the tenants. If therefore the landlords wanted to keep their zamindari intact they would have to strive their utmost to realise rents from the tenants. The records of the period show that the law of distraint promulgated by the Government for speedy realisation of rent had little effect. "It is with extreme concern," wrote the Collector of Dacca in 1795, "that I am obliged to send so long a statement (for sales) as I am perfectly confident that the arrear has not proceeded from any mismanagement of zamindars, but the litigation of their under-talukdars who filed suit in Dewani Court to evade the payment of revenue." Handicapped as the zamindars were in this way their only salvation lay in the extension of cultivation. It was therefore natural that they would try to extend the cultivation either by settling new tenants or by bringing lands themselves under cultivation. The zamindars were the only intelligentsia of the province and they must have perceived that unless other sources of profit were resorted to, they would not be able to keep their zamindari from sale.

That there was an extension of cultivation after the Permanent Settlement admits of no doubt. The question is by whom was this made. The Collector of Midnapore in his letter to the Board of

Revenue, dated 12th February, 1802, observes: "Before this period 1799, complaints of inefficiency of the Regulations were very general amongst the zamindars or proprietors of large estates and it required little discernment to see that they had not the same powers over their tenants which Government exercised over them. It was notorious that many of them had large arrears of rent due to them which they are utterly unable to recover; while Government was selling their lands for arrears of assessment. Farmers and intermediate tenants were till lately able to withhold their rents with impunity and to set the authority of their landlords at defiance" (5th Report).

The Select Committee in its report says, "The Government was of opinion that the fear of losing their estates which were liable to sale to liquidate the balance of revenue, would operate more powerfully with the zamindars than any considerations of personal disgrace and they deemed it essential to strengthen rather than adopt any measure which might reduce the powers of the zamindars over their under-tenancy, who, it appeared, had under the general protection afforded by the Courts of Justice entered into combinations; which enable them to embrace the landholders in a very injurious manner by withholding their just dues and compelling them to have recourse to a tedious and expensive process to enforce claims which ought not to have admitted of dispute" (5th Report). If this was the feeling which prevailed at the time between the landlords and the tenants is it probable that the landlords would let out the waste lands, which according to the estimates of Lord Cornwallis were one-third, in the estimation of others one-half and in the estimation of some others two-thirds of the lands capable of cultivation, to those tenants who were so inimically disposed towards them? The real state of things seems to be that the landlords cleared the jungles and brought the waste lands into cultivation mostly by their own servants and labourers until good feeling was restored between the landlords and tenants when some portion of those lands or other uncultivated lands were gradually let out to tenants or the servants of the landlords. This must have been their principal source from which they paid their revenue so long as the feeling between them and their tenants remained strained.

It is impossible to state at the present day to what extent was the large increase in area brought under cultivation due to increase in population or to initiative and pecuniary or other assistance of the zamindars. But this is certain that no part of the increase in area was due to the initiative or enterprise of tenants. The mass of the people were wholly illiterate and lacked initiative and unless induced to work by some intelligent and controlling hand they would not be able to bring the lands under cultivation. The country was at that time unsettled and though the zamindars had recently been relieved of police

duties, still it was they who afforded protection to the tenants against the encroachment of wrong-doers and robbers, etc. No enterprise could have thrived in those days without adequate protection from the zamindars and it is notorious that the tenants lacked the initiative of enterprise. The waste lands must have therefore been brought under cultivation under the initiative, guidance and expense of landlords though it may be that the actual manual labour was performed by the servants or labourers. This would account for the origin of the proprietor's private lands—the area of which at one time was very large but gradually when the population increased portions of it were let out to tenants with the result that the area of it now-a-days is small.

The zamindars have greatly extended cultivation by bringing large areas of waste lands under tillage, planting colonies of peasants by means of concessions, pecuniary help, draining marshes, clearing jungles and digging tanks (Seton-Karr, 45-49). The jungles were cleared mainly by granting jungleburi leases which system prevailed from before the time of the Permanent Settlement. According to Mr. Seton-Karr, the main object of the zamindars, for years after 1793, was to induct raiyats into waste and culturable lands, as population increased and as more space and new villages were required to meet the wants of a growing community. In such instances, the rent demanded was very small, or nothing at first. A zamindar drained a huge swamp by cutting a channel for the overflowing of its water into the nearest river. He excavated by paid labour an enormous reservoir which secured a supply of water for dozen villages. He constructed ghats and landing places of stone or brick in the banks of rivers or tanks. He dedicated temples and built school houses (page 46).

A zamindar who had annexed and cultivated a part of jungle land was granted exemption from assessment in respect of such land if the zamindar could prove that he reclaimed the land on the presumption of freedom from assessment. (Revenue Despatches from Bengal, dated 5th April, 1837, paragraph 9.)

Q. 7. My Association at the outset would point out that after the Permanent Settlement of 1793 there were other areas in Bengal which were permanently settled long afterwards. Therefore the rent roll of the permanently settled area at the time of the Permanent Settlement in 1793 is no criterion for comparison. The valuation made by the Cess Revaluation Officers is not correct; it is a notorious fact that the Cess Revaluation Officers increase the valuation arbitrarily every time the Cess revaluation takes place.

It is not possible at the present day to determine how much of the increase of the rent roll is due to what cause or the exact proportion of

each. But my Association has already pointed out in answer to question 6 that the increase was mainly due to the efforts of the landlords. My Association has already pointed out that reclamation of waste lands and increase in cultivation must have been made under the initiative and protection of the landlords. It may be that on account of the increase of population more and more waste lands have been brought under cultivation; but the initial expense of clearing jungles and bringing them under cultivation must have been borne by the landlords as described before. The landlords have an abiding interest in the soil and it is their interest to see that they make some profit out of it.

As regards enhancement of rents my Association does not think that the increase in the rent roll was due, in a great measure, to the enhancement of rent. If we refer to Sir William Hunter's Statistical Accounts of Bengal published in 1875 and subsequent year we find that in Midnapore the proportion of rent to produce is 12 per cent. Mr. R. C. Dutt, C.I.E., I.C.S., who during a period of over 25 years was employed as a Revenue Officer in different districts of Bengal and had occasions to make enquiries regarding the proportion of rent to produce found as a matter of fact that the rent generally realised by the Bengal zamindars was about one-sixth of the gross produce in some districts and was even less in others (*vide* his Fourth Letter to Lord Curzon, dated 25th April 1900). In the Bengal Government Report which formed an enclosure to Lord Curzon's Land Resolution of 1902 it was reported that the Bengal zamindars obtained *about* 11 *per cent.* of the gross produce as rent. In the statistics supplied to us from the office of the Land Revenue Commission in Statement II it is said that the average value of all crops per acre is Rs. 49 according to settlement reports and Rs. 44-5 according to the agricultural statistics of India; and the incidence of raiyati rent per acre as stated in Statement IX regarding permanently settled area is Rs. 3 only and in Government khas mahal Rs. 4-11, i.e., *about* 7 *per cent.* of the gross produce in permanently settled areas. It shows that increase of rent roll is not due to the enhancement of rent inasmuch as there has not been any increase in the productive power of the land; and also that the proportion of rent to gross produce is decreasing.

My Association may mention here that the cost of cultivation has increased in recent years as will appear from the estimate collected at the office of the Land Revenue Commission, Bengal. So far as western Bengal is concerned our experience is that in most cases tenants employ Santal labourers for cultivation of lands and for all works regarding sowing, reaping and threshing of paddy and in growing other crops. These entail larger expenses and the margin of profit left to the tenants is becoming smaller in consequence.

Q. 8. In our replies to previous questions, my Association has dealt with this point at length. The rents realised by the landlords are very moderate not exceeding the amount which in old Hindu times the tenants used to pay to the owner of the land. My Association's answer to this question is therefore that the zamindars have fulfilled the expectations required by them at the time of the Permanent Settlement. My Association may mention here that the relation between the landlords and the tenants in western Bengal was all along very cordial and resembled the relation of father and son. The tenants used to look up to the landlord in times of distress and scarcity and landlords also extended to them their fatherly protection. Instances have not been rare in which the tenants gave up their lives for the benefit of their landlords and the landlords in return gave doles of rice to the tenants in times of scarcity and spent money and protected them when necessary. Tenants were invited to the landlords' houses and entertained on every festive occasion. Elsewhere my Association has enumerated some of the beneficial and charitable works undertaken by the landlords for the good of tenants.

"In India," writes Mr. J. S. Mill, "things are so far better than in Ireland that the owner of land is in the habit of making advances to the cultivators, if they cannot cultivate without them."

In view of the answer my Association has given above, the further question as to what extent absenteeism and want of close touch between the landlords and tenants were responsible for the failure to carry out the duties entrusted to the landlords, does not arise. My Association may be permitted to point out here that the landlords who do not own large estates will reside in the village and even some of them collect rents from tenants themselves. It is only the big landlords who possess lands in several distant areas, find it not practicable to remain in close touch with the tenants.

Q. 9. My Association has already answered the first part of this question.

The Permanent Settlement imposed on the zamindars some duties which have been enumerated in our reply to question 1. The zamindars have as a general rule carried out the duties imposed upon them.

When the Permanent Settlement was concluded almost all the zamindars resided within the locality or near about the locality which was settled with them. They had close touch with the tenants. In case of big zamindaris which consist of villages lying far apart or in several districts it was not possible that the zamindar would remain present in all the areas which appertained to his zamindari. Many landlords who own small estates still reside in the village and collect

rents themselves. It is true that in recent times some landlords have begun to reside in towns. A variety of causes and circumstances have contributed to this state of things in western Bengal:—(1) The villages are mostly insanitary and the best medical help is available in towns; (2) Higher education of their children necessitates migration to towns; (3) A hankering after obtaining titles induces the landlords to stay in towns where they may see the Magistrate of the district very often. A landlord who did not do this was even looked upon with disfavour by the authorities till some time ago. But even those who stay in towns cannot be said to be out of touch with the tenants; they visit their estates occasionally. They have got a head office and the branch offices in the villages or blocks of villages appertaining to their estates. My Association may be permitted to point out that the same thing will happen or worse will happen if the tenants come directly under the Crown. They will be placed under a Manager who would be in charge of a certain area. The Manager and his subordinates have no permanent interest in the land and they are not likely to take the same interest in the tenants as the landlords do. The representatives of the Crown live far away from the area where tenants cultivate and they are not better than absentee landlords. The Manager and his subordinates (at least, a good many of them) have an idea that they would be promoted if they can show increase of revenue. Hence private landlords, even if they are absentees for a great part of the year, are better than these Managers, so far as the tenants are concerned. It may be that the Managers are better qualified than many of the present landlords, but at the same time it must be remembered that these landlords grow up in a tradition of management of their estates and are specially trained therefor. Moreover, they have often to come in touch with the tenants either in their zamindaris or in their head offices where the tenants often approach them for many reasons. Collectors and the Members of the Board of Revenue have not the same opportunity to come in close contact with the tenants and know their grievances as the private landlords have.

It is only in recent years when the economic depression set in that the landlords found it very difficult to improve their estates as they used to do previously. Nowadays the tenants cannot pay them rent and as my Association has pointed out before, it is only after 7 years that landlord is able to realise rents. In the meanwhile, he had to pay revenue 28 times, evidently out of his own pocket. The landlord nowadays find it difficult to make his two ends meet. He has to borrow money from creditors in order not only to defray his expenses but also to keep up his social prestige and style. Thus, he cannot lay out any money in the improvement of his estate or for the benefit of the tenants.

He cannot, therefore, be said to be not discharging his duties or fulfilling his obligations.

Q. 10. Yes, in my Association's opinion the Permanent Settlement was in the interest of the country economically. Mr. R. C. Dutta wrote on March 12, 1902, "Bengal was permanently settled in 1793, and since that date famines are rare in Bengal, and there has been no famine within the permanently settled tracts causing any loss of life. The agricultural people are generally prosperous and resourceful and with some help from Government they have tided over the worst calamities without the most lamentable result of famines—a ghastly tale of death. The very reverse of this has been the case in every other province of India not permanently settled. The agricultural people are so resourceless and impoverished, that the most liberal relief measures have failed to save lives; and the uniform story of deaths by the million has been told in every famine year. These are facts that tell their own tale. Within a period of over 100 years there has been no famine in permanently settled Bengal, causing loss of lives; while loss of life has been lamentable and frequent in every other province of India in spite of all relief operations" (First Reply to Lord Curzon's Land Resolution). Again he wrote in 1902:—"In 1876 a cyclone and storm-wave destroyed the crops of many districts in eastern Bengal, and I was sent as a Subdivisional Officer to an island which had suffered the most. I knew that the people had no food, and I was prepared to open relief operation when needed, without acting in haste. What was my surprise when I found that the people needed no relief and asked for none; the cultivators had paid rents for years before and invested all their savings in silver jewellery for their women, and in the valuable articles. In the year of disaster they sold their silver things, bought ship-loads of imported rice and helped themselves till the next harvest. A small number of orphans and helpless old men who had lost their relations by cyclone were relieved; the mass of the people supported themselves through the crisis. What was this silver jewellery of the cultivators but a famine relief fund in the hands of the people?" Hence the Permanent Settlement was in the economic interest of the country.

The proprietorship conferred on the zamindars has also much to do with the introduction into lower Bengal, nearly alone in the Indian provinces, of new and vast agricultural industries (Maine's Village Communities, page 163).

The zamindar is on the spot, he is not changeable like the rapidly shifted Government tahsildar, and he enjoys the entire benefit of the increased production; hence he has every inducement to increase the cultivation. The zamindar alone can introduce costly agricultural

improvements and machinery which are beyond the means of petty individual cultivators. Hence agriculture on a large scale is possible only in the permanently settled parts of India. By the agency of the zamindar a new sanitary measure, a new method of cultivation or a new kind of crop can be quickly introduced amongst the peasants. "Scarcity is met, relief works are set on foot and supplies are transported in a famine with greater facilities where there are large zamindaris than in provinces where the settlement has been made with the heads of village communities or with each raiyat direct." (Seton-Karr, page 70). In short the zamindar holds all the threads of village life in hand and his power for good is great. When there is a great resident zamindar, crimes are hardly known (Sir Jadunath Sarkar's Econimics of British India, pages 109-110).

Permanent Settlement avoids the expense and harassment to tenants which attend every periodical renewal of settlement in other parts of India. It has saved the land revenue of this State from annual fluctuation and uncertainty of collection.

The Permanent Settlement co-operating with the law of equal inheritance of the sons has created a large middle-class which is the cause of the social, literary and educational advancement of Bengal.

Sir Thomas Munro stated before the House of Commons that there was no difference between the zamindari settlement of Bengal and the raiyatwari settlement in Madras as regards permanency. The Marquis of Wellesley, once Governor-General of India, was so convinced of the benefits of the Permanent Settlement that he pledged the word of the British Government in 1803 and 1805 by Legislative Act and Proclamations to extend it to modern India. His successor Lord Minto recorded his opinion that "to ameliorate generally the conditions of natives, it is our firm conviction that no arrangement or measure will tend so speedily and effectually to the accomplishment of those important objects as the establishment of Permanent Settlement." Lord Minto's successor, the Marquis of Hastings, once more urged in 1820 that "it is our unanimous opinion that the system of Permanent Settlement of the land revenue either on the principle of fixed jama or of an assessment determinable by fixed or invariable rate ought to be extended to the ceded and conquered provinces." Lord Canning urged once again the extension of Permanent Settlement to all provinces of India for the prevention of such famine as he had witnessed in Northern India in 1860. Sir Charles Wood, the then Secretary of State for India (afterwards Lord Halifax), accepted the proposal and described it as "a measure dictated by sound policy and calculated to accelerate the development of resources of India and to ensure in the highest degree the welfare and contentment of all classes of Her Majesty's subjects in that country." Sir John Lawrence (afterwards Lord Lawrence) wrote in

the same year, "I recommend a perpetual settlement, because I am persuaded that however much the country has of late years improved its resources will be still more rapidly developed by the limitation of the Government demand." And Sir Stafford Northecote, Secretary of State for India, approved of the proposal in 1867 in consideration of the great importance of connecting the interest of the proprietors of the land with the stability of the British Government. Such were the opinions of three generations of distinguished administrators and able statesmen in India—of men who built up the British Empire, had opportunity to see and closely observe the effect of Permanent Settlement in its working upon the people and valued the contentment and happiness of the people. But unfortunately the desire to promote the welfare of the people did not ultimately shape the action of the Government. The desire to conciliate the people lost its force when the Empire became stable and the desire of continuously add to the land revenue prevailed. All the landlords who have much at stake look at the British Rule in India not only as a just and enlightened system of administration but as a government with which their own interests are intimately associated, as a government whose permanence means the well-being of the people. In the dark days of the Mutiny of 1857, there was no disaffection in Bengal, and in the words of Mr. Seton-Karr, "The Sepoys took to the villages and the jungles and then they literally melted away before the impassive demeanour, the want of sympathy and the silent loyalty of the zamindars. Through the loyalty of the zamindars has been confirmed the loyalty of the entire people towards the ruling power (Mr. R. C. Dutt's Fourth Letter to Lord Curzon and the First Reply to Lord Curzon's Resolution). But memory is proverbially short. All the services of landlords were forgotten in the desire to screw up the revenue demand and latterly the Indian Government had tried to persuade themselves and persuade others that the Permanent Settlement is a useless and a hurtful institution.

The limitation of the State demand has fostered agricultural enterprise, extended cultivation and led to the accumulation of some capital in the hands of private proprietors which is expended in fostering trades and industries, in supporting schools, dispensaries, charitable institutions, in excavating tanks and wells, in constructing bridges and roads and lastly in supporting poorer classes in season of distress and famine. Apart from the instance cited before, my Association may cite here the remarkable instance of Maharaja of Darbhanga who altogether expended a hundred thousand pounds sterling in relief works and in remissions of rent during the famine in 1897 and the earthquake of 1933; and that of late Maharaja Manindra Chandra Nandi who spent about four crores of rupees in the relief of the poor and the distressed. The modest capital accumulated is not retained in the hands

of a few exclusive Houses of Bengal. It is fairly distributed among the intelligent, enterprising and industrious men of all districts and of all classes. It encourages profession, education and culture and it promotes, generally, the well-being of all classes and thereby indirectly helps the revenue of the country.

Before the Permanent Settlement was made a question arose as to with whom the Settlement was to be concluded. Sir John Shore who was entrusted with the task pointed out that there were 3 methods by which settlement could be made. By the first method the Company would collect rents direct from the cultivators; by the second method the estates would be let out temporarily to any persons selected by the Company; the third method would admit the proprietary right of the zamindar with whom the settlement would be made. The first method Shore rejected on the grounds that it presupposed a degree of knowledge, experience and applications in the Collectors which is rarely found and attained; that Government could not secure its revenues by specific engagements; *that this method of khas collections had invariably proved a failure in the past*; it would further be impossible for the Board of Revenue to exercise any adequate control. The second method, the ijara or farming method, is dismissed very briefly; a temporary farmer would never look to the future improvement of the estate. Such a method was unanimously condemned and so he did not detail inconveniences met with zamindars. He maintained that they would act as officials for securing the peace and prevention of oppression —duties which had been incumbent in the past; Shore recited what he called the evils of zamindari control at length and maintained that the evils were largely due to their uncertain position and the variation of their treatment in the past. Owing to the complications in the administration in Bengal the Company would not undertake the task of collecting the rents of the cultivators by its own officers and the zamindari system was the only alternative (Fifth Report, paragraphs 154 to 198). Previous to this my Association had occasion to point out that the Government was almost bankrupt at the time and the Permanent Settlement saved the Government from total collapse. The frantic efforts of Warren Hastings to collect revenue had resulted in the imprisonment of defaulting zamindars, the farmers whom he employed to collect rents, e.g., Debi Singh had become notorious in history by their unheard-of oppression on cultivators (*see* Burke's Impeachment of Warren Hastings). It was for this reason and other reasons that Sir John Shore admitted that the method of khas collection had invariably proved a failure in the past. Had the Settlement been made with the raiyats, thin and poverty-stricken as they were, the Company would not have been able to realise sufficient rents from them and in case of oppression which was inevitable they would have

either died or fled from the country or there would have been a revolt. The Permanent Settlement was therefore the best solution of all the problems that presented themselves at that time. Lord Cornwallis therefore in a Minute, dated 18th September 1789, said—"Although however I am not only of opinion that the zamindars have the best right, but from being persuaded that nothing could be so ruinous to the public interest as that the land should be retained as the property of the Government I am also convinced that failing the claim of right of the zamindars, it would be necessary for the public good to grant a right of property in the soil to them or to persons of other descriptions. I think it unnecessary to enter into any discussion of the grounds upon which their right appears to be founded. It is the most effectual mode for promoting the general improvement of the country which I look upon as the important object for our present consideration. I may safely assert that one-third of the Company's territory in Hindusthan is now a jungle inhabited only by the wild beasts. Will a ten years' lease induce any proprietor to clear away the jungle and encourage the raiyats to come and cultivate his lands, when at the end of that lease he must either submit to be taxed *ad libitum* for the newly cultivated land or lose all hopes of deriving any benefit of his labour for which perhaps by that time he will hardly be repaid." He was therefore of opinion that in order to give value to these rights they must be made permanent (Fifth Report, Vol. I, p. 591).

The above account would show that the Permanent Settlement was made for the benefit of the country and the Company, the landlords and the tenants were benefited by it. Had there not been this settlement it would not have been possible to carry on administration and everything would have been in chaos and confusion, thus the Company was benefited. The only reproach which is made against it is that sufficient safeguard was not made regarding tenants' interest. But my Association has already pointed out that the Government reserved to itself the right of enacting whatever legislation it thought fit to undertake for the benefit of the tenants. Sir John Shore had pointed out that the exact rights of the tenants were not then known. It was therefore that the rights of tenants which were then known to be regulated by customs were not enumerated in the Regulations. But this does not prove that the Permanent Settlement itself was not for the benefit of the tenants. As a matter of fact they were saved from the oppressions of the Company's servants and farmers of rent.

Mr. Seton-Karr who was formerly a Puisne Judge of the Calcutta High Court and sometime Secretary to the Government of India wrote in 1890, "The author of this memoir himself had the advantage of hearing from the mouth of a civil servant (the late Mr. James Pattle, senior member of the Board of Revenue for many years up to his death

in September 1845) who began his career in 1793 and ended it in 1845 after more than 50 years of continuous service in the Bengal establishment, the opinion which was held by some very competent Judges of the paramount necessity of a permanent assessment at the time of the famous proclamation. "It was," he said, "such as to leave the Governor-General hardly any opinion at all. There was difficulty in some districts in getting well qualified persons to engage for the realisation of the public revenue."

The same author goes on, "Though several of the solid fruits of the settlement in perpetuity might have been equally attained by a settlement for a long period, it may be argued that periodical assessments might in Bengal have been productive of other evils. Bengal is more than any other province in India the scene of that evasion and subterfuge which are the proverbial resources of the weak. In other provinces as the period of revision draws nigh, a certain amount of distrust and disquietude arises in the minds of the population. Wealth is concealed; lands are purposely thrown out of cultivation; and many unfair means are resorted to in order to avoid an increase of rental. There can be no doubt that all these disturbing agencies would have been set actively at work in Bengal. It is not moreover easy to overestimate the advantage of the wealthy and privileged class who have everything to lose and nothing to gain by revolution. This is clearly seen and acknowledged during the time of the Sepoy Mutiny. There were few large military cantonments in the lower provinces in that eventual year. Even when isolated detachments of sepoys mutinied as they did at Dacca, Chittagong and Birbhum, they met no countenance from the zamindars.....In times of famine and scarcity the co-operation of wealthy zamindars has been invoked by the Government and in many instances ungrudgingly afforded—and in a country where social distinctions and inequalities still retained their attractions for the masses the maintenance of the large zamindaris is quite in accordance with native feeling and it has political advantages which compensate or at any rate balance its defects." (Cornwallis, pages 68 to 70.)

The revenue system which the Permanent Settlement has led to has been for the benefit of the province. Tenancy legislations have been passed from time to time curtailing the powers of the landlords and safeguarding the interests of the tenants. My Association has already pointed out that the Permanent Settlement coupled with the tenancy legislation has resulted in producing a tenancy who are more resourceful, more contented than the tenantry of other provinces. The Permanent Settlement has not resulted in benefiting the landlords at the expense of tenants. The statistics collected by the Land Revenue Commission shows that in Bengal the average value of all crops per acre is Rs. 49, whereas the rent payable by the raiyats in permanently

settled estates is Rs. 3 per acre. If we take the case of Bombay, there the average value of crops per acre is Rs. 25-9, whereas the incidence of revenue per acre is Re. 1-8. Therefore the incidence per acre of the amount payable by the tenants of the permanently settled areas in Bengal is the same as that paid by the tenants of Bombay. Whereas there is no check on enhancements provided in the Revenue Law of Bombay, the Bengal Tenancy Act has not only stopped enhancement for 10 years; but it also provides other checks on enhancements. My Association has already pointed out that at the time of Permanent Settlement it was not possible to define exactly the rights of the raiyats and it was also not possible to provide checks for enhancements of rents as the assessment was fixed at ten-elevenths of the rental. This was done in 1850 when the landlords had increased their rent rolls and had obtained a sufficient margin of profit. There was therefore no advantage to the landlords at the expense of the tenants.

Without the Permanent Settlement the East India Company could not have carried on their administration. Everything would have been in chaos and confusion and very likely the history would have been wholly different. No stable Government could have been formed, the revenue would have greatly fluctuated and the rest of India might not have been conquered by the British. At least it would have taken about a century to form a stable Government; hence the people have been greatly benefited by it.

Q. 11. (1) It is not correct to say that the Permanent Settlement has led to the appropriation of nearly 80 per cent. of the income from land to the zamindars. Nowadays the khas land of the zamindars mainly consist of village pathways, drains, and waste lands which do not yield any crops. Taking therefore the incidence of revenue per cultivated acre in a permanently settled area, namely annas 15 only, if we compare this with the rent derivable from the tenants namely Rs. 3 per acre, the proportion of the profits left to the zamindar comes to about 70 per cent. But at the same time it must be remembered that some areas often lie waste on account of death without heirs of tenants and on account of the fact that the tenants abandon, desert or surrender their jotes and go elsewhere; besides this no landlord can ever collect rents in excess of 60 per cent. of the total rental and in these days of economic depression the collection never exceeds 50 per cent. of the total rental. Add to this the fact that the landlord has to sue for arrears of rent and pay court-fees, etc., out of his pocket in expectation of realisation. It is a notorious fact that the landlords have to spend much besides court-fees which not being legally recoverable are not realised from tenants. My Association has already pointed out that landlords generally sue for 4 years' rents and when they succeed in obtaining decrees, they put them into execution when all available

steps for amicable realisation of decretal amounts fail. The landlords after putting the decrees into execution have often to purchase the holding themselves. If the landlords are not of the cultivating class, these holdings often lie fallow and so much arrears of rents of the landlords go unrealised. In this way the condition of the landlords nowadays has greatly deteriorated and more and more estates are being continually put up to sale. The landlords however borrow money and anyhow try to avoid sale. In this way the indebtedness of the landlords is continually increasing. In the district of Midnapore, barring some estates, the revenue demand is generally 50 per cent. of the rent roll and the landlords therefore find it very difficult to pay revenue punctually. Their income is gradually decreasing in consequence of the fact that more and more lands are continually lying waste. There has been a continual migration of tenants from the district of Midnapore to the Sundarbans and to the mill areas lying on the banks of the Ganges, where they earn more than what they did in their native places. The capacity for work of the Midnapore tenants seems to have decreased; they cannot nowadays work without the help of Sonthal labourers; hence the cost of production also has greatly increased and the margin of profit is much less than what is used to be formerly. The villages are insanitary and the ravages of Malaria have decreased the working capacity to an alarming extent. In almost every village, owing to the ravages of Malaria the number of able-bodied tenants has greatly diminished and the consequence is that many of the lands are lying fallow.

The landlords may appropriate the greater portion of the rent derived from tenants but they spend the greater portion of it in charitable and beneficent activities and the rest in maintaining their families and dependents. The condition of the present landlords is far from satisfactory as will appear from the account detailed above. This shows that they have not been able to make great profits.

(2) It is alleged that Permanent Settlement has led to subinfeudation of tenancy, but subinfeudation is also observed in Government khas mahals. The subinfeudation which has taken place is with regard to tenureholders. According to the Bengal Tenancy Act, raiyats can only let out their holdings to under-raiyats and there can be no further subinfeudation by the under-raiyats. There is no limit to subinfeudation in that Act between the zamindars and the raiyats. Hence there has been subinfeudation of intermediate interests. But at the same time it must be noted that when a zamindar lets out his land to a tenureholder, he carves out an interest out of his own interests and parts with a portion of his own profit. He does not or cannot interfere with the rights of raiyats. Where a zamindar parts with some of his interest it must be presumed that there has been some cogent reason behind it,

because a man does not part with a portion of his profit for nothing. The rent derivable from a raiyat is thus shared between a zamindar and the intermediate tenureholder. Subinfeudation is not always bad. It is said that the Raja of Burdwan escaped from the provisions of the stringent sale laws by the invention of patni system.

Sir George Campbell says, "All the under-tenures in Bengal have not been created since the Permanent Settlement. Dependant taluks, gantis, howlas and other fixed and transferable under-tenures existed before the Settlement. Their permanent character was practically recognised at the time of the settlement and has at any rate since been confirmed by lapse of time."

"The general provisions of the Regulations of 1793 were in favour of the tenants. The story of the Permanent Settlement was to give to all under-holders down to the raiyats the same security of tenures as against the zamindars which the zamindars had against the Government. Sub-holders of taluk, and other divisions under the zamindars were recognised and protected in their holdings subject to the payment of their established dues." (Bengal Administration Report, page 79. *See* also report of Messrs. Anderson, Croft and Bogle printed in Harington's Analysis, Vol. II, at pages 62, 63 and 64.) The Regulations themselves will show that there were these tenures from before the time of the Permanent Settlement (sections 50 and 51 of Regulation VIII of 1793). There were various kinds of taluks before the time of the Permanent Settlement—(1) taluks held under grants from zamindars which did not expressly transfer the property in the soil but operated simply as leases on terms of payment of rent and other conditions, (2) taluks for which the revenue was paid through zamindars and the title deeds in respect of which contained in stipulation that it should be so paid (section 6 of Regulation VIII of 1793), (3) junglebari taluks held under permanent leases on conditions of clearance of jungle lands and payment of fixed amounts of revenue after fixed rent-free period, (4) taluks which might have been recorded as independent but for which applications to the Collector were not made within one year of passing of Regulation I of 1801 (section 24, Regulation I of 1804). Regulation VIII of 1793 broadly divides dependent taluks existing at the date of the Permanent Settlement into 2 classes, those of which the rents are capable of being enhanced and those of which the rents were not enhancible. If there was a grant to hold in perpetuity at fixed rents, and payments had been made at fixed rents for more than 12 years before the Permanent Settlement neither the grantor nor his heirs nor even the Government could enhance the rents, otherwise increased assessment could be demanded. The presumption generally was in favour of the talukdars as soon as it was proved that the taluk had existed from before the Decennial Settlement.

The above account will show that there were various kinds of tenures existing from before the Permanent Settlement. It is therefore not correct to say that Permanent Settlement has led to subinfeudation of tenancy. The number of tenures at the present day is 2·7 millions. The system of subinfeudation has absorbed so many tenureholders or much more. If the system of subinfeudation had not been in vogue so many persons besides a huge number of their employees would have been thrown out of employment and would have swelled the rank of the unemployed. The Permanent Settlement has therefore provided subsistence to so many persons, their shares and dependents. That was an old immemorial custom of the country and we have already shown that subinfeudation of the Permanent Settlement has injured neither the Government nor the raiyats nor the cultivators of the soil.

(3) The third ground of attack is that it has led to the enhancement of raiyati rent. Before proceeding to reply to this ground of attack my Association would point out that even if there had been no Permanent Settlement, i.e., even if the zamindars had been swept away and settlement made directly with the cultivators of the soil there can be no doubt that the Government would have enhanced the rents of the cultivators to an alarming degree. It was the custom in the last days of the Muhammedan rule to fix the State demand at a very high figure and then to realise as much, as a nominal demand, as was possible from year to year. The mistake made by early British Administrators was to adhere to this high nominal demand and then to try and realise the whole of it. Some British Administrators saw this mistake and one Collector, Mr. Dubbton, wrote that the settlement of 1802 made in Northern India pressed beyond a reasonable demand, and also complained that the severe rates of Nawab's government were stereotyped by the British Rulers without the same elasticity in realising (Baden-Powell's Land System of British India, Vol. II, page 14).

In Bombay, "Every effort was made lawful and unlawful to get the utmost out of the wretched peasantry, who were subjected to torture, in some instances cruel and revolting beyond description; they could not or would not yield to what was demanded. Numbers abandoned their homes and fled into neighbouring Native States; large tracts of lands were thrown out of cultivation and in some districts no more than a third of cultured area remained in occupation" (Administration Report for 1892-93, page 76). The first regular settlement was made from 1836 and was completed or nearly completed by 1872 and it showed an increase of 32 per cent. exclusive of Poona, etc., then under a settlement (Administration Report for 1872-73, page 49). A second regular settlement commenced from 1866 and was going on up to 1898-99. It showed an increase of 30 per cent. The third regular

settlement commenced in 1896 and it showed an increase of about 30 per cent.

My Association need not multiply instances. That there has been some enhancement of raiyati rents nobody denies. But in spite of enhancement the average rental at the present day in permanently settled estates is much lower than the average rental of the khas mahal and of the temporarily settled estates. The rent in khas mahal area exceeds more than one and a half times the rent of the permanently settled area.

My Association has already pointed out in answer to question 7 that enhancement of rents had no appreciable effect in the increase of the rent roll.

(4) This fourth ground of attack is more sentimental than real. The Permanent Settlement did not create a system of overlordship. The system of overlordship, if you choose to call it so, was already there from a very very long time. A far back as my Association can obtain any evidence, my Association always finds the province of Bengal parcelled out amongst the zamindars who were virtually rulers within their respective estates. When the Afghans conquered Bengal they carved out estates here and there for military commanders and jagirdars but left Hindu zamindars generally in possession of estates which they had inherited from their fathers. Muhammadan Kazis and Kotwals performed judicial and police works in towns but within their own estates the Hindu zamindars were left with their old powers. They levied rent, preserved peace and order, settled disputes and led large armies. One of these Hindu zamindars (Danuj Rai) helped the Afgan Emperor of Delhi about 1288 A.D. with his own troops against an insurgent chief, and when Bengal became independent of Delhi in the following century one of the Hindu zamindars (Raja Ganes) had sufficient influence and military power to make himself king of Bengal and to leave the throne to his son. When Bengal was conquered by Akbar in the 16th century, the Hindu zamindars continued to hold the same position and to exercise the same political and military power as they had done under the Afghans. The power and influence wielded by the Bara Bhuiyas or the 12 great zamindars of Bengal were such as to cause anxiety in the mind of Akbar and led him to send his ablest general Man Singh to coerce them into submission.

When the British became the virtual rulers of Bengal in the latter half of the 18th century they tried to rob the zamindars of Bengal of their influence and power. Warren Hastings deprived them of their political and police powers; he imprisoned defaulting zamindars, sold their estates to outsiders for arrears or let them out on short leases. He scarcely acted with sufficient regard to the ancient tradition of the

province or to the position which the hereditary landlords had held for centuries amongst their people. When Lord Cornwallis became the Governor-General he wisely sought to secure to them the honoured place which they had held for centuries; with the true instincts of a nobleman he saw that it was not for the good of the people or for the rulers that the estates of the ancient houses should pass into other hands and with the true instinct of a statesman he endeavoured to give the zamindars of Bengal the motive and the opportunities to extend cultivation, to accumulate capital and to improve the country.

It was the zamindars who had shielded their under-tenants from the rapacity of the Company's officers. The relation between them and the tenants before the Permanent Settlement was cordial. It is therefore not correct to say that an overlordships was "created" by the Permanent Settlement which was harassing and oppressive to the cultivators of the soil. My Association has already pointed out before how it was the zamindars that suffered just after the Permanent Settlement owing to the combination amongst tenants. They tried to evade payment of rent on various pretexts and subterfuges.

Had not this zamindari interest interposed between the Government and the cultivators, the Government would have realised the rents directly from the tenants and all the tales of woe which my Association has pointed out before occurring in raiyatwari settlement tracts would have been repeated in Bengal. They would have been paying rent at this date one and half times in excess of what they are paying at present. Rent would have been punctually and rigorously realised from them and in case of failure the certificate procedure with all its rigour would have been applied. The zamindars treat them with leniency and allow them to pay rent at their pleasure. In Govenment estates, however, it is necessary to ensure an approximate revenue and such lenience or latitude cannot be given to tenants. Further, as my Association has observed before, the zamindars have an interest in the soil and they therefore value highly the cordial relation that should exist between the tenants and the landlords, but the same consideration does not weigh with the shifting tahsildars or managers of the Government estates. The latter do not look upon the tenants with the same sympathy or kindness; they consider that punctual and rigorous realisation of rent from tenants is likely to give them a lift in the near future.

My Association does not think that the zamindars harass or oppress their tenants and there has been no creation of bad overlordship by the Permanent Settlement.

Q. 12. My Association does not advocate the abolition of the Permanent Settlement.

The Editor of the "Calcutta Gazette," dated the 9th of May, 1793, wrote as follows:—

"To enter into a detail of advantages that will, in all probability, be deprived from the various articles of this proclamation by confirming the claims of all ranks of proprietors and abolishing many inferior duties, would lead into a very wide field which we could but imperfectly explore; but the great purpose of it, the permanent settlement of a land-tax we consider as involving so much political truth with practical benefit, that we cannot pass it over without endeavouring to illustrate what it is impossible not to admire.

"It has frequently been a subject of controversy amongst philosophers and financiers, whether the taxation of lands should be fixed according to certain valuation, not afterwards to be altered, or formed on a scale which varies with each variation of the real rent of the land, and rises or falls with the improvement or declension of its cultivation. Government has on the present occasion adopted the former system; and we think, however specious the latter may appear, it is founded on a mistaken principle as it in argument supposes that considerable improvement will arise while in fact it at the same moment throws the strongest check upon every species of improvement and industry; namely that the Government which bears no part in the expense shall bear away a share of the profits of improvement.

"Under the former system of land-tax the revenue is rendered certain to the Government as well as to the individual and nothing is left to the arbitrary disposal of the one or the evasion or dishonesty of the other; at the same time the strongest inducement is held out to the proprietor to improve the value of his estates, for as that is improved, not only his general comfort and wealth is increasing but the very tax system is rendered more light by bearing a smaller proportion to the increased value and produce. Nor is Government excluded from sharing in these advantages though in a less immediate way for the immediate consequence of an increase of produce is an increase of the population of the country whose industry returns again to the fields or overflows into the manufactories which work upon their production".

"By these measures a permanent revenue is secured to Government, property to individuals, and a prospect of wealth and happiness is open to the natives co-extensive with the industry and capital they shall think fit to employ in the cultivation and improvement of their lands."

Mr. John Stuart Mill in his famous book on Political Economy (Book II, Chapter X, section I) writes:—

"A perpetuity is a stronger stimulus to improvement than a long lease, not only because the longest lease before coming to an end passes through all varieties of short leases down to no lease at all; but for

more fundamental reasons. It is very shallow even in pure economics to take no account of the influence of imagination, there is a virtue in "for ever" beyond the longest term of years; even if the term is long enough to include children, and all whom a person individually cares for, yet until he has reached that high degree of mental cultivation at which the public good (which also includes perpetuity) acquires a permanent ascendency over his feelings and desires, he will not exert himself with the same ardour to increase the value of an estate, his interest in which diminishes in value every year. Besides, while perpetual tenure is the general rule of a landed property as it is in all the countries of Europe, a tenure for a limited period however long is sure to be regarded as something or inferior consideration and dignity and inspires less of ardour to obtain it and of attachment to it when obtained."

Mr. Shore towards the conclusion of his Minute gives a summary of his proposals, "The leading principles upon which I shall ground my proposals for the ensuing settlement are two: the security of Government with respect to its revenues and the security and protection of its subjects. The former will be best established by concluding a Permanent Settlement with the zamindars or proprietors of soil, the land—their property—is the security of the Government. The second must be ensured by carrying into practice as far as possible an acknowledged maxim of taxation. The tax which individual is bound to pay ought to be certain and not arbitrary. The time of payment, the manner of payment, the quantity to be paid ought all to be clear and plain to the contributor and every other person. The settlement is then to be made for a period of 10 years certain, but with a *view to permanency.*"

To this Lord Cornwallis made the following comments:—

"Mr. Shore has most ably, and in my opinion most successfully in his Minute delivered in June last, argued in favour of the rights of the zamindars to the property of the soil. But if the value of the permanency be withdrawn from the settlement now in agitation, of what avail will the power of his arguments to be to the zamindars for whose rights he has contended? When the landlord of the soil himself the right owner of the land, is only to become a farmer for a lease of 10 years and if he is then to be exposed to the demand of a new rent which may perhaps be dictated by ignorance or rapacity what hopes there can be—I will not say an improvement but of preventive desolation".

"If the laws are enacted which secure to zamindars the fruits of industry and economy and at the same time leave them to experience the consequence of idleness and extravagance, they must either render themselves capable of transacting their own business or their necessities will oblige them to dispose of their lands to others who will cultivate and

improve them. This, I conceive, is the only effectual mode with this or any other Government could adopt to render the proprietors of land economical landlords and prudent trustees of the public interest" (Lord Cornwallis' Minutes, dated 18th September 1789 and 3rd February 1790).

Five years after the Permanent Settlement of Bengal, William *Pitt*, the great Prime Minister of England, made the land tax perpetual in England in various districts specified in the Act and the landlords were enabled by this Act to redeem the tax altogether by the payment of a lump sum. There may be some doubt as to the wisdom of Pitt's Permanent Settlement of the land tax in England; there can be no doubt as to that of Cornwallis Permanent Settlement in Bengal. In England, the Settlement benefited the landed classes only; in Bengal the Settlement has benefited the whole agricultural community; the entire peasant population shares the benefit and is more prosperous and resourceful on account of this measure. If the Settlement limited the tax on one out of the many sources of national income, in Bengal it has afforded a protection to agriculture which is virtually the only means of the nation's subsistence. In England it precluded the State from drawing a larger land tax to be spent in the country for the benefit of the nation; in Bengal it has precluded the State from increasing the annual drain of wealth out of the country (*cf.* the remarks of Mr. Shore, paragraphs 131, 132, 135, 136, 140 of the Fifth Report). In England it saved the landlord class from added taxation; in Bengal it has saved the nation from fatal and disastrous famines (Mr. R. C. Dutt's Economic History of British India, pages 95, 96). "In other parts of India where the land tax is uncertain and excessive it takes away all motives for agricultural improvements and prevents saving and famines have been attended with deaths of hundreds of thousands and sometimes of millions." (*Ibid*, page 94.)

Mr. Philip Francis, who was then a member of the Council of the Governor-General, in one of the ablest Minutes recorded in India recommended that the land revenue demand of the State should be permanently fixed. (Philip Francis' Minute of 1776 published in London in 1782.)

My Association has showed that the Permanent Settlement benefited the Government politically. The zamindars have always stood solidly behind the Government. But for their attitude during the Sepoy Mutiny, the British Government would have been swept away. Whenever the Government was at stake, it counted upon the loyalty of the zamindars. They have been maligned by the oppositionists in consequence. It is a pity that they are now looked upon with disfavour by the Government. Their value in the social fabric cannot be too highly stated. We shall deal with this point later on.

If the Permanent Settlement is abolished, more than four millions of people would be thrown out of ostensible means of livelihood. The Permanent Settlement had been so long providing them with subsistence. What will the Government do with these people?

The miseries of the tenants are due not only to the present economic depression but also in a great measure to the economic drain which has continued for more than a century and half and not because they are rack-rented by the landlords by virtue of the power conferred on them by the Permanent Settlement. Long ago Mr. Shore observed this and wrote:—

"The Company are merchants as well as sovereigns of the country. In former capacity they engrossed its trade, whilst in the latter they appropriated the revenue. The remittances to Europe of revenues are made in the commodities of the country which are purchased by them. Whatever allowance we may make for the increased industry of the subjects of the State owing to the enhanced demand for the produce of it (supposing the demand to be enhanced), there is reason to conclude that the benefits are more than counterbalanced by evils inseparable from the system of remote foreign dominion.

"Every information from the time of Bernier to the acquisition of the Dewani shows the internal trade of the country, as carried on between Bengal and the upper parts of Hindustan, the Gulf of Moro, the Persian Gulf, and the Malabar Coast, to have been very considerable. Returns of specie and goods were made through these channels by that of the foreign European Companies, and in gold dust for opinion from the eastward.

"But from the year 1765 the reverse has taken place. The Company's trade produces no equivalent return. Specie is rarely imported by the foreign Companies, not brought into Bengal from other parts of Hindusthan in any considerable quantities." *See* also Verelst, dated 24th March 1768.

In his lecture on the economic causes of Indian famines delivered at a meeting of the Fabian Society in London on June 28th 1901, Mr. R. C. Dutt said, "The entire financial policy of England in respect of India in the 18th Century to the present day was to charge to India everything which could rightly or even wrongly be charged to that unrepresented country. England has spent hundreds of millions in acquiring and defending her colonies all over the earth. For acquiring and defending the Empire of India she had not paid a shilling. On the contrary during the rule of East India Company, India paid an annual tribute to England reckoned in millions. When the Company was abolished, the cost of the transfer of the Indian Empire to the Crown was charged to India. Since then they had made India pay for

wars in China, Afganisthan, Persia and the Sudan. They maintained a vast army in India mainly for Imperial purposes at the cost of India. They had initially excluded the people of India from nearly all high offices in their own country in order to find a career for English boys in India. A Parliamentary return was submitted nine years ago showing all salaries and pensions of a thousand rupees and upwards paid by India. Taking Rs. 10 for a pound sterling the total came to fourteen millions sterling in Englishmen annually, and only three and one-fourth millions to the natives of India. Such had been the financial policy of England towards an unrepresented country. The result was that the public debt had increased by leaps and bounds in India in a time of profound peace. The public debt, taking ten rupees for a pound, was 118 millions sterling in 1875, in 1895 it was 220 millions, that is, it nearly doubled in India within 20 years of profound peace. India paid for the Colonial Office located in Whitehall; India paid for the India Office located in a part of the same building. In payment of the expenses of that office and of various other liabilities India had to make a constantly increasing annual remittance to England. As India had little manufacture and little trade, virtually the whole pressure fell on the produce of the soil—on the food of the people. Thus India was forced to export far more than she imported and this excess was increasing at a startling rate. In 1894 to 1898 the excess amounted to 25 million tens of rupees. The Royal Commission on Indian Expenditure in their recently published report found the net revenues of India to be 57 million tens of rupees. A sum therefore nearly equal to one-half of the public revenues of India was annually remitted out of India without a direct equivalent. A sum representing the food of 25 millions of the people of India was annually remitted out of India without a direct return. Was it possible that under this financial arrangement India would be other than impoverished and famine-stricken?"

There are also other grounds why the tenants are poverty-stricken. My Association refrains from enumerating them here; but this is certain that the Permanent Settlement is not one of those causes. The tenants are not rack-rented, and oppression by the landlords is a myth. The law has provided sufficient checks against oppression. There have been great increase of population; and according to economists, increase of population always and unconditionally tends to cause rents to rise (this theory of Ricardo has been proved to be correct by Dr. Pierson); why should the landlords be blamed for this? My Association has shown that there has been practically no increase of rent compared with the gross produce.

The zamindari system is theoretically favourable to agricultural improvement at the cost of the zamindar, because he is the permanent

owner and can recover his outlay from the land. Moreover the zamindari estates being large in area, if a zamindar betakes himself to farming he can derive all the advantages of production on a large scale which is impossible in the small plots of the mahalwari and raiyatwari areas. The Permanent Settlement by creating a rich and leisured class has fostered an accumulation of capital and large industries may be rendered possible by the financial backing of the zamindars. (*See* Gokhale's Speeches, p. 493.)

It may be pointed out here that by Regulation II of 1819, the East India Company formally "renounced all claims on the part of Government to additional revenue from lands which were included within the limits of estates for which a permanent settlement has been concluded at the period when such settlement was so concluded, whether on the plea of error or fraud or any pretext whatever," thereby solemnly confirming their solemn pledge given before. So this question cannot be raised now.

Q. 13. My Association does not advocate any of the methods suggested in the question.

(1) The zamindari system which my Association has shown to be as old as the Hindu times and is a part and parcel of land tenure system in India should not be abolished. In the Hindu times we read of powerful landholders who supplied contingents of troops to the sovereign power in times of need. Without citing numerous examples my Association may refer to the *Rampal Charit* of Sandhyakar Nandi wherein it has been described how in the 11th century A.D. Rampal regained his lost kingdom through the instrumentality and help of these big landholders. When the Muhammadans came to power they did not disturb the system already in vogue. From very ancient times the soil of Bengal was held by zamindars or hereditary landlords armed with quasi-feudal powers, paying revenues and rendering military service to the sovereign in times of need, and virtually ruling the people within their own estates. They were recognised as Rajas by their subjects and tenants. They maintained order, settled disputes and punished crimes. They encouraged religion and rewarded piety. They fostered arts and learning and were the patrons of letters. Though many of their functions have been taken away by the British Government the big landlords have still kept up their former tradition. If the zamindari system is abolished public institutions will starve and new institutions cannot be founded. There is scarcely any trade or commerce in Bengal, there are no wealthy merchants, as in Bombay.

At present the surplus capital of the province is invested in landed property which means the purchase of zamindari or its subordinate tenures as it is believed to be a safer investment than trade or manufacture. If the zamindari system with all its subordinate tenures is

abolished this huge surplus capital will either lie idle or be invested in some business. But the inhabitants of Bengal have no experience of business and in these days of hard competition not only amongst the Indian traders but against the efficient foreign traders, such business is likely to collapse with loss of thousands and thousands of rupees. There is also no source from which this loss could be made up. *If the* zamindari system remains intact the loss could be made good from the profit of the zamindari. People therefore are and would continue to be very unwilling to invest money in trade or commerce.

The number of zamindars and tenureholders in Bengal exceeds 4 millions. It is a part of the customary rule in the country that a zamindar or a tenureholder maintains a number of dependents, male or female, who have otherwise no means of subsistence. They also maintain a large number of employees. In this way people who subsist on the profit of the zamindari system would not be less than 10 millions. The zamindars and tenureholders also pay for the education and living of their dependants and in this way partly solve the unemployment problem. If the zamindari system is abolished this huge mass of people would be thrown out of employment with no immediate prospects of getting their subsistence. Discontent will increase, terrorism, robbery and violence will be rampant. The whole social and political fabric will be thrown into utter destruction. This would be worse than the Jewish programme of Herr Hitler.

If the zamindari system is abolished, that is, all the tenures between the raiyats and the Government are swept away there can be no doubt that in the future time some people will acquire large tracts of country by piecemeal purchase or settlement and though designated as raiyats will virtually hold as tenureholders with the same process of subinfeudation as exists at present. Tenureholders do exist in Government khas mahals at the present day. By thus sweeping away the zamindari system we would be substituting for it another system wherein almost all the various grades of tenants which now exists will remain, only they would be renamed differently. About a century after it may be found that these tenureholders are making large profits. Would then this process of expropriation go on indefinitely? Are these tenureholders or zamindars not to be given any incentive to improve their estates? Would the new raiyats who shall come directly under the Government have the incentive to improve their lands seeing that the most solemn pledge and assurance given by the former Government had been treated as a mere scrap of paper? My Association thinks a Government should be a moral Government which preceives the necessity of fulfilling a solemn pledge. A Government which follows the Machiavellian maxim "the promise given was a necessity of the past, the word broken is a necessity of the present" is a barbarous

Government not worth the name of Government at all. Rights of property and sanctity of contract are never safe under such a Government.

That the zamindars had right before the Permanent Settlement is apparent from the Regulations themselves. Even if they had no such right before, their rights were either created or recognised by the Permanent Settlement and they had been in possession of these rights for about a century and a half. This right has been theirs by long prescription and enjoyment and it is a maxim of legal jurisprudence as well as of political economy that no one who has been in possession of a right for such a length of time should be deprived of the same. Are the zamindars to be deprived of theirs because they have succeeded in making large profits from the lands? If that be the maxim of jurisprudence then private enterprise will lose its incentive and fervour. No right of property would be safe.

"Landlords", says Dr. Pierson in his classical treatise on Economics, "are sometimes represented as a class who contribute nothing towards the income of the community. It is wrong to represent them in this light. It may be said of the landlords that one of the most important of the instrument of production has been entrusted to their care. It is their duty to see that this instrument shall suffer no deterioration through improper cultivation; rather, that it shall acquire increased value, so that it may be handed down in an unimpaired and if possible, in an improved condition to the next generation. The landlord does not, in every case, adequately fulfil his duties, but it cannot possibly promote the public welfare to deprive him of the incentive to do so." (Vol. I, p. 107.)

(2) My Association has already pointed out (and quoted the opinion of Mr. John Stuart Mill in support) that the Permanent Settlement is always better than a temporary settlement. Apart from this, many complicated questions will arise. Suppose, for instance a zamindar has let out his zamindari or estate in patni at a fixed rent reserving to himself a small malikana. Now if the Permanent Settlement goes and the zamindar is made to pay large amount on the basis of a temporary settlement—an amount which far exceeds the amount reserved by himself as malikana, this would be doing a great injustice to the zamindar. The zamindar on the faith of a solemn assurance of the Government that his jama is fixed for ever has let out his estate in patni reserving to himself a small malikana. He would now certainly be faced with a great difficulty as he will have to pay a great part of the revenue out of his own pocket though he has no source wherewithal to pay it. He cannot enhance the rent of the patnidar as he is bound by contract not to enhance the same. Even where he has not let out his estate at a fixed jama it may be that on temporary settlement the jama

payable by him would be greater than the jama realised by him from the tenureholders under him.

It is a notorious fact that on every re-settlement rents of all persons interested in lands from the under-raiyats to the zamindars or tenure-holders is increased. In temporarily settled estates in Bengal the increase has been very heavy though made gradually. Sometimes it became so heavy that the zamindars refused to take settlement of the land at the rate proposed and was granted some malikana while the estates were let out to farmers of rent. In Bengal the rent per acre of the raiyati interest in land is far greater than the rent in permanently settled areas. Thus it is seen that the raiyats are more oppressed in temporarily settled tracts than in permanently settled areas. There is also the fact that they had to undergo the harassment and expense at the time of every settlement which often takes 3 or 4 years at least for completion. The rents of the temporarily settled estates are so heavy that the proprietors cannot pay the full amount in every kist, they pay a portion of the amount and pray for time to pay up the balance which is however generally granted nowadays.

If the Permanent Settlement is substituted by Temporary Settlement merely, the same number of intermediate holders will exist, so that a large portion of the raiyati assets will be swallowed up by these intermediate holders. So this proposition is no solution of the problem adumbrated.

The Government incurs heavy expenditure at the time of every settlement. In order to compensate this expenditure it becomes necessary to enhance the rents or raiyats, the tenureholders and the zamindars. Thus at every settlement some amount of rent is bound to be enhanced even when there is economic depression. We may mention the incident of Contai Settlement which has taken place during a period of dire economic depression. The rents of raiyats have also been increased and there was combination amongst tenants not to pay rent when this increased rent was sought to be realised.

The proposal for substitution of Temporary Settlement in place of Permanent Settlement is a violation of the solemn pledge given at the time of the Permanent Settlement and many times thereafter and offers no solution of the proposition adumbrated and it is distinctly disadvantageous to the raiyats and to all persons interested in land. It leads to neglect of cultivation on the approach of every revision of settlement, in order to remove the ostensible assets. "As the period for revision draws nigh a certain amount of distrust and disquietude arises in the mind of the population. Wealth is concealed, lands are purposely thrown out of cultivation, and many unfair means are resorted to in

order to avoid the increase of rental" (Seton-Karr, p. 68). "The investment of capital in land is discouraged, as there is no certainty that the improvements made at the tenants' expense will not be appropriated by Government in the form of enhanced revenue. The people cannot lead a full and contended life, as they are not proprietors of the land they cultivate" (Imperial Gazetteer of India, Vol. IV, page 231). "The peasant must have lands to till or must starve. The body of the nation is therefore in every case dependent upon the great sovereign proprietor for the means of obtaining food.....Intermediate and independent classes there are none; and great and small are the slaves of that master on whose pleasure the means of their subsistence wholly depend. The tendency of such a stage of things is to perpetuate the depotism it creates." (Jone's Peasant Rents, pp. 100—101, 123. *See* also R. C. Dutt's India in the Victorian Age, pp. 486, 502.)

(3) This question is not clear. What is it intended to be taxed—the agricultural income of the landlords from their private land or the income derived from rents, either in cash or kind or profits derived by the landlords from their estates? The intention of the framers of the question seems to be to tax the entire income of the estates or tenures of the landlords. If this is the meaning the new tax is really a violation of the solemn pledge given at the time of the Permanent Settlement that the Jama would be fixed for ever. If the Government can get round its pledge in this way, no one would be safe.

My Association is aware that Mr. John Stuart Mill has advocated the taxing of unearned increment of the landlords. But the question is whether this is a case of unearned increment at all. My Association has already pointed out that the increase in the income of the estate was mostly due to the attempts on the part of the landlords to improve their estates. Further Mr. Mill did not contemplate a case where a solemn assurance has been given to the landlords that their jama would never increase. Mr. J. S. Mill has prescribed the procedure on which such taxation should be made. "The first step should be valuation of all the lands in the country. The present value of all lands should be exempted from tax; but after an interval has elapsed during which society has increased in population and a capital a rough estimate might be made of the spontaneous increase which had occurred to rent since the valuation was made. Of this the average price of produce would be some criterion; if that had arisen, it would be certain that rent had increased, and even in a greater ratio than the rise of price. On this and other data an approximate estimate may be made how much value had been added to the land of the country by natural causes, and in laying on a general land tax, which for fear of miscalculation should be considerably within the amount thus indicated, there would be an assurance of not touching

an increase of income which might be the result of capital expended or industry exerted by the proprietors."

The same writer goes on to add, "But though there could be no question as to the justice of taxing the increase of rent, if society has avowedly reserved the right, has not the society waived that right by not exercising it? In England, for example, have not all who bought land for the last century or more, given value not only for the existing income but for the prospects of increase under an implied assurance of being only taxed in the same proportion with other incomes?" Here Mr. Mill admits that if the society reserved the right of taxing the earned increment there would be no question as to the justice of its so taxing. In our case there is a solemn assurance that the jama would not be increased. Therefore a tax at the present day on agricultural income would be not only unjust to the landlord but a violation of the pledge given. Further the Government not having exercised its so-called right of taxation for a century and a half cannot now come forward and tax it, specially in view of the fact that an overwhelming proportion of the present-day landlords are purchasers of the interests of the original landlords and they have invested their money in good faith on the solemn assurance that there would be no further increase of jama.

Lassalle, the German Social Democrat, in a speech which he made in 1862 said that such a land tax though paid by the landowners has the effect to raising the corn prices and therefore the tax is ultimately borne by the consumers of the corn. Prince Bismark as Imperial Chancellor in 1881 expressed an opinion which practically coincided with that of Lassalle. Their reasoning seems to be this—(1) that the burden of the land tax is shifted by the landowner to the tenant farmer, (2) it is shifted by the tenant farmer to the consumer. Though this proposition has been controverted by some, where full competitive rent prevailed, there is no question where this is not the case, or where tax consisted of a fixed charge per acre. One of the foremost causes of increase in the quantity of the agricultural produce placed on the market is the application of capital to the improvement of the soil and the proposed land tax may check the application of capital, to that purpose.

Mr. Mill says, "A tax on rent would be inexpedient unless some means could be devised of excluding from its operation that portion of the nominal rent which may be regarded as landlord's profit. This argument, however, is not needed for the condemnation of such a tax. A peculiar tax on the income of any class, not balanced by taxes on other classes, is a violation of justice and amounts to partial confiscation." (Economics, Bk. V, Chap. III.)

The proposed tax is really a violation of the solemn pledge given by the Government that the landlords will never have to pay any amount more than the jama fixed. My Association considers that the Cess Act is a violation of this pledge and if such violation go on for ever, and if a Government which pleads for sanctity of covenants is the first to violate it, there can be no safety anywhere, the credit of the Government will soon sink much below par and everything will be thrown into confusion.

Q. 14. My Association has already expressed the opinion that we do not advocate (*i*) or (*ii*) of question 13; but still my Association would record its opinion on the present question. My Association would certainly advocate the giving of compensations to the zamindars and the tenureholders. My Association pointed out that zamindars had rights from time immemorial and they have also acquired an indefeasible right to the soil by prescription. Therefore they must be adequately compensated for the loss of their right. The value of the right should be calculated in the manner laid down in the Land Acquisition Act (Act 1 of 1893).

Government bonds of the face value of the amount ascertained as above should be made over to the landlords. The rate of interest payable on the Government bonds will bear to 100 the same proportion as the nett profit from the estate bears to the value of the estate fixed in the way mentioned above. The Government bonds mentioned above should be made free from Income-tax as no benefit would accrue to the Government of Bengal by enriching the Governemnt of India at the expense of the landlords.

Any other course would be inequitable, unjust and injurious to the zamindars. My Association has already pointed out that most of them are purchasers who have invested their capital in buying properties and they are getting a fixed return for their money. This return should not be reduced for no fault of theirs. Hence it would be just and equitable if the proportion mentioned above is maintained.

It is not possible to say any definite sum which would be required as compensation to the landlords. According to the criterion above laid down the sum required would be between 300 to 400 crores of rupees.

Q. 15. The bonds mentioned above should be redeemable. As the bonds would be a national debt they should not be made permanent. Such a huge amount of national debt cannot be redeemed before 40 years. My Association does not think however such a huge national debt should be incurred or that it might be redeemed at one time. It would make the Government bankrupt. A popular Government which has recently been set up should not at its inception incur such a heavy debt on the bare expectation that the debt would be redeemed at a

future date. A new popular Government should not embark on such speculation.

My Association has already dealt with the rate of interest which should be fixed on these bonds. (*See* reply to question 14.)

Q. 16. The zamindar has for a long time been the only channel through which the knowledge and comforts of civilisation can reach the cultivators. To his temple at Puja time or on festive occasions flock all the peasants, male and female. It plays the part of a club to them and affords the only source of collective amusement to them. (Sir Jadu Nath Sarker's Economics of British India, 3rd Edition, p. 110). The zamindar is instrumental in starting a school, establishing a dispensary and a post office which benefit all the neighbouring villages. He is the head of the social structure and all religious and social offences are dealt with by him. He makes arrangement for medical treatment of his tenants, solves their difficulties, acts as an arbitrator in their disputes and maintains discipline. Many of the functions he exercised before have been taken away by the British Government, but he is still the head of the social and religious fabric in a village. On festive occasions his money provides amusements to thousands of his tenants who are too poor to pay for them. He feeds and maintains students, provides for their education and contributes to the upkeep of tols, muktabs, pathsalas and schools for the benefit of the public. He does these things because he looks upon the tenants as his children according to immemorial tradition. If the State purchases his zamindari he would lose all interest in the improvement, maintenance and sanitation of the villages and may shift to towns where his children will have better prospects of education and sanitation. The villages will be without their leaders—leaders of society, of religion and of thought. The whole village social fabric will crumble to pieces and party factions will paralyse all activities of the village.

Q. 17. If it is intended that the interests of all the intermediate holders between the raiyat and zamindar should be purchased that would require a vast sum of money. It is neither desirable nor practicable to adopt such a course which would be ruinous to the country. Even after the acquisition of such interests there will always be persons who by piecemeal purchase would acquire more than 100 bighas or more than what can be cultivated by raiyats. Such persons will always let out portions to cultivating raiyats and will thus practically be tenureholders.

It may be however pointed out that there are many patnidars and mukararidars in many estates interposing between a zamindar and the raiyats. Such persons have their jamas fixed for ever. If these interests are kept intact, the State will not derive the benefit it seeks,

as their jamas are never enhancible. On the other hand, some of them may be in the position of peasant proprietors though my Association is disposed to think that the zamindars are really in the position of peasant proprietors of Europe.

Q. 18. - A host of officers will have to be appointed to carry on the Revenue Administration of a district in Bengal if the raiyats come directly under the Government. First of all, one Collector will not be sufficient to cope with the enormous increase of work. If close touch is to be kept up with the raiyats, if their grievances are to be redressed, if any improvement in their condition is to be effected, one tahsildar should be appointed over 200 raiyats and a manager with staff will have to be appointed over 20 tahsildars. A Deputy Collector with staff will have to be appointed over 2 such managers. The number of Deputy Collectors in the district will have to be ascertained according to the size and area of the district. A host of surveyors, inspectors, cashiers, etc., will also have to be appointed. The estimated cost will not be less than 20 per cent. of the gross amount realised. In private estates owing to personal management the zamindars manage with less cost. But even in those cases the collection charges never amount to less than 12 per cent. of the gross amount realised. In the case of the Government, highly paid Collectors, Deputy Collectors, Managers, Inspectors, Cashiers, Tahasildars are appointed. Hence the collection charges are not likely to be less than 20 per cent. of the gross amount realised.

If the interest of the zamindars is purchased and bonds are issued to them, another set of officers will have to be appointed to keep accounts of these bonds. The estimated cost of such an establishment is not likely to be less than 5 per cent. of the amount for which the bonds will be issued. As there are many zamindars and bonds are to be issued to each of them the number of bonds will necessarily be very large and the staff to cope with this increased work must also be large. A separate department for the purpose of payment of interest to the erstwhile zamindars will have to be opened at every district collectorate and also in subdivisions.

Q. 19. My Association does not think that the khas mahal raiyats enjoy any advantages over tenants under the proprietors of permanently settled estates and even of temporarily settled estates. The Bengal Tenancy Act applies to all the tenants but whereas under Chapter X, Part II of the Bengal Tenancy Act, a table of rates has to be prepared in permanently settled areas, such table of rates is not prepared and enhancement can only be granted under section 105 of the Bengal Tenancy Act by the Revenue Officers and under section 30 by the Civil Court. Now when Civil Courts and Revenue Officers enhance the rents of raiyats they take particular care to see that the rent is not enhanced

beyond a very modest amount, say one anna or utmost two annas in the rupee. But in the khas mahal the revenue is settled by the Revenue Officer of the Government who often vie with each other in enhancing the rents of raiyats, their impressions being that they would be promoted if they can show substantial increase of revenue. There is practically no effective check against such increase. It is therefore that the rents of raiyats in khas mahal are greater than the rents of raiyats in permanently settled tracts.

In khas mahal the steps taken for the realisation of rent are as speedy as oppressive. The Public Demands Recovery Act is applied with all its rigour and a raiyat is arrested or his movable properties seized if he does not pay his rent in time. Sometimes the doors and windows of his house and even the thatch are sold for arrears of rent. No remission is granted to him and he is put to various indignities for his inability to pay rent. Rent is never allowed to fall in arrears after one or two years. But in a permanently settled tract the picture is quite different. The raiyat does not dread his landlord as in khas mahals and if any oppression is made by him the raiyat at once goes to the nearest police station or to the Magistrate's Court to get his redress. They are quite helpless in khas mahal. They apprehend that any complaints against the tahsildar or other employees in the khas mahal department would not be either entertained or be successful. The landlords can only demand rents and when the raiyats fail to pay, they have no other alternative than to go to court for redress. Those of the landlords who live in mofussal areas try to avoid going to Court as much as possible in order to avoid harassment and expenses of litigation. It is therefore that they do not sue for rent until it is going to be barred by limitation. The result is that the tenants get immunity for 4 years at least. This immunity they do not enjoy in khas mahal. The tenants are so over-burdened with debts that they are greatly relieved when they enjoy immunity for 4 years. For realisation of arrears of rent the Government issues Certificates against tenants and after notice under section 7 of the Public Demands Recovery Act is served, the Certificate Officer unnecessarily issues distress warrant, body warrant and notice of settling the terms of sale proclamation all simultaneously. In this way the costs mount up to a high figure often exceeding the amount of rent due from the tenants. The tenants are thus unnecessarily harassed and are made to pay more than double the amount due from them.

In khas mahals there would be periodical settlements of rents and as my Association has pointed out elsewhere these settlements are not only harassing to the tenants but also spell enhancement of rent.

My Association has already shown that the raiyats in permanently settled areas are treated with great consideration and sympathy by

the zamindars who have an abiding interest in the soil; they are not merely tax-collecting machines.

Hence my Association thinks that the raiyats would prefer not to come under the Government direct.

Q. 20. My Association has already stated in answer to question 11 that it would not be correct to say that the Permanent Settlement encouraged subinfeudation.

The creation of permanent tenures has not affected the position of the raiyats economically. My Association has already pointed out that these tenures have been carved out of the interest of the zamindars and that they share the rent paid by the raiyats along with the zamindars. Hence the creation of these permanent tenures have not affected the position of the raiyats economically. The position of the raiyats has been made secured by the Bengal Tenancy Act. It may be that here and there some permanent tenureholders have enhanced the rents of the raiyats but probably the zamindars or the Government would have done the same thing even if the permanent tenureholders had not been there.

Where the zamindars live at a great distance, those who take settlement of the permanent tenures are generally men who live in the same locality as the raiyats. In such cases such permanent tenureholders become the social leaders of the poeple. Small tenureholders generally have no high social status; but big permanent tenureholders have, because they come in contact with the raiyats direct. The raiyats' social position is not however affected by the creation of permanent tenures.

Q. 21. My Association does not advocate the State purchase of all tenures as that would involve an unnecessary heavy outlay. We have spoken about this in reply to question 17.

If this question means that only the tenures are to be purchased and not the zamindaris the effect of purchase of tenures will be that the zamindars would continue to be the heads of social structure of Bengal. The economic question in such a case would be a very complex one as by purchase of all tenures the State would be the tenants of zamindars.

The real intention of the question seems to be what would be the social and economic position of the province, if the State purchases all zamindaris and all sub-ordinate tenures. In such a case the whole social fabric will crumble to pieces and a new society will have to be formed with new leaders out of a chaotic state. Nobody can foretell in what way the society will shape itself. Probably some clever and intelligent people will be the leaders or an aristocracy of wealth may

be formed modelled on western civilisation. Ancient Hindu society which had so long resisted many disruptive forces will be utterly destroyed. The Muhammadan society will also lose its former ideal.

My Association has already dealt with the economic position of the province in reply to question 18.

Unless adequate compensation is given to tenureholders, *their* social and economic position will be greatly lowered and they will swell the rank of the unemployed. If they get adequate compensation they may anyhow preserve their social position for a time; but their economic position will continue to deteriorate with every generation by the operation of law of inheritance.

Q. 22. Even if the zamindaris and tenures are purchased by the State, the homestead and khas lands of the zamindars and the tenureholders should be kept intact and proper rent should be assessed on them. It would serve no useful purpose to purchase the khas land and homestead of the zamindar and the tenureholders, specially the homestead. With regard to the khas lands if the zamindars and the tenureholders refuse to keep them, they may be purchased. Compulsory purchase of the homestead and the khas lands would only add to the heavy debt to the State.

All lands found on enquiry to be in the khas cultivation of the zamindars and the tenureholders and all khas lands wherein no tenant has acquired the interest of an occupancy raiyat should be considered as khas lands.

Q. 23. In ancient Hindu times the land *itself* belonged to the Crown but were cultivated by others. In Vedic times it seems certain that land was already owned by individuals or families. The term "Kshetra" is unmistakably employed in this sense and in one hymn, one maiden places her father's cultivated field on the same level with his hair as a personal possession. We read also of "gramani," the leader of a village, who was probably invested with both civil and military functions and was the origin of modern zamindar. That originally agriculture was carried on by Aryan tillers is certain. But in the period of Brahmanas the position was changing gradually; and for the present working on his own field was being substituted the landowner cultivating his estate by means of slaves. In the later Samhitas, Brahmanas, etc., we find that the king controlled the land of the tribe; he gave grants of lands to his retainer; and we find it reported in the "Satapatha" and "Aitareya" Brahmans that the king Viswakarman Bhauvan gave lands to his priest. It is more probable that at this time the allotment of lands was determined by the king or the noble to whom he had granted rights of superiority according to customary law. In early Buddhist era we find the existence of a

form of tenure called "Rajbhogga." The holder of such a tenure was empowered to exact all dues accruing to the Government, within the boundary of the district or estate granted to him; but he had not to render to Government any account of the dues thus received by him. They were his perquisites; he could hold his own court and occupied in many ways the position of a baron or lord of the manor. The peasantry had to pay him tithe of the rice grown and though the amount was not strictly a tithe and by royal decree could be varied in different localities the grantee could not vary it; so with the import or ferry and octroi duties (Dighanikaya 1, 114, 127, 130). The rural economy of northern India at the coming of Buddhism was based chiefly on a system of village communities of landowners. The king had rights on a tithe on raw produce collected as a yearly tax. All abandoned and all forest lands the king might dispose of and he had the right of escheat. The tithe on produce was levied in kind measured either by the village syndic or the headman. Lands were owned by Brahmins and others and could be sold or gifted away. It might also be let against certain share of the produce. The holdings too in the arable land called the "khetta" of each village would be subject to redistribution and redivision amongst the families as one generation succeeded another. The limits of the whole "khetta" might be extended by fresh clearing of the forest lands and whereas the majority of the holdings were probably small, manageable single-handed or with sons and perhaps a hired man, big estates also are mentioned in Jatakas, farmed by Brahmanas. In the Suttas again we find the Brahman, Kasi and Bharadwaj employing 500 ploughs and hired men to guide plough and oxen. Megasthenes records that apart from the royal domains the ultimate property in the lands appertained to the king; that is the king was entitled to the revenue therefrom and in default could replace the cultivator in his holding (*See* also Arthasastra, Chap. XIX). It was the king's business to organise the agricultural productivity by encouraging the surplus population to settle new or abandoned tracts. The bulk of the population consisted of actual cultivators and Megasthenes remarks that their avocation was to such a degree defined that they might be seen peacefully pursuing it in the sight of the contending armies. The higher classes in the country were entitled for their maintenance to a defined portion of the revenue. Jajnavalkya says "When a man does not cultivate either himself or by means of others he should be made to pay to the owner of the field the amount of grain which the field would have yielded if it had been duly sown with crops." It would thus appear that in those times there were persons who were recognised as owners of land and others who were only cultivators, with no right to the soil. Megasthenes says that husbandmen were allowed to till the lands on condition of payment of a certain part of the produce. (Mr. Crindle's Ancient India as described by Megasthenes and Arrian, p. 84.)

Coming to the Muhammadan times we find that there were three classes of cultivators having an interest in the soil (1) the original settler and their descendants, (2) the immigrants who had permanently settled in the village, (3) the mere sojourner in the village or those who without living in the village cultivated lands in the village. The original settlers in the village with their descendants and those cultivators who had been admitted to share the same privileges formed the class of khudkasht and they had an hereditary right to cultivate the land of the village in which they resided. They were also called Chapperband or housetied, mourasi or hereditary and thani or stationary (Campbell's Cobden Club Essay, p. 165). Their rights were regulated by custom; they could not be ousted while they continued to cultivate their holdings and pay the customary revenue. There was another class of raiyats who were called paikasht who cultivated lands of another village than their own. They were mere tenants-at-will or more usually from year to year. The nature of their rights was precarious. They had no proprietary rights but they could not be ousted between sowing and harvest. Those who were immigrants from another village only acquired rights as permanent inhabitants of village when they had shown their intention to do so by building and clearing and establishing themselves as members of village community ready to undertake a share in the responsibility attaching to that position (Campbell's Cobden Club Essay, p. 165). Those who were settled in the village for more than one generation were generally considered to have sufficiently shown their intention. Sir John Shore in his Minute recorded on the 18th June 1789, says, "It is, however, generally understood that the raiyats by long occupancy acquire a right of possession in the soil and are not subject to be removed; but this does not authorise them to sell or mortgage it and it is so far distinct from right of property. This like all other rights under a despotic or varying form of Government is precarious." (Para. 389).

Para. 406. "Pattas to the khudkasht raiyats or those who cultivate the land in the village where they reside are generally given without limitation of period and express that they are to hold the lands paying the rents from year to year. Hence the rights of occupancy originates; and it is equally understood as a prescriptive law that the raiytats who hold by this tenure, cannot relinquish any part of the lands in their possession, or change the species of cultivation, without a forfeiture of a right of occupancy which is rarely insisted upon; and the zamindars demand and exact the difference. I understand also that this right of occupancy is admitted to extend even to the heirs of those who enjoy it."

Para. 407. "Paikasht raiyats or those who cultivate the lands of villages where they do not reside hold their lands upon a more indefinite tenure. The pattas to them are generally granted with a limitation

in point of time; when they deem the terms unfavourable they repair to some other spot."

Mr. Shore writes, "I consider the zamindars as the proprietors of the soil to the property of which they succeed by right of inheritance, according to the laws of their own religion, and that the sovereign authority cannot justly exercise the power of depriving them of succession nor of altering it when there are any legal heir. The privilege of disposing of lands by sale or mortgage is derived from this fundamental right and was exercised by the zamindars before we acquired the Dewani—with respect to the raiyats their right appear very uncertain and indefinite. Whilst the demand of Government upon the zamindar was regulated by some standard, as I conclude it was from the time of Todar Mal to that of Jaffar Khan they had little temptation or necessity to appress their raiyats." (Harington's Analysis, Vol. III, pp. 430, 433).

According to the great traveller Bernier, a peasant under the Moghul Government reasons thus, "Why should I toil so much for a tyrant that they come tomorrow to take all away from me and at least all the best of what I have and not have, if the fancy taketh him so much as to sustain my life even very properly?" And the Timariot, the governor and farmer will reason thus with himself, "Why should I bestow money or take pains of bettering and maintaining this land since I may expect every hour to have it taken from me or exchanged for another? I labour neither for myself nor for my children and that place which I have this year I may perhaps have no more the next. Let us draw from it what we can, whilst we possess it though the peasants should break or starve, though the land should become a desert when I am gone." (Bernier's Travels).

Messrs. Anderson, Crofts and Bogle who were appointed Commissioners in 1776 reported as follows:—

"The immediate occupant of the soil, whether he be considered as proprietor or tenant, is called raiyat. The ground of which he enjoys fruits and for which he pays rent is granted by the zamindars, the chowdhury or other superior in whose district it is situated. The word 'raiyat' in its most extensive signification, means a subject; but it is usually applied to the numerous and inferior class of people who hold and cultivate small spots of lands on their own account and might perhaps properly be denominated *terre* tenants."

Again they go on to say, "It is unnecessary perhaps to enter into a minute examination of the different tenures on which raiyats cultivate and hold their lands or to attempt to enumerate the various and often contradictory customs that prevail in almost every province. The most general distinction however with respect to their tenures is that of the khudkasht and paikasht. The name of khudkasht is given to those raiyats

who are inhabitants of village to which the lands they cultivate belong. Their right of possession whether it arises from an actual property in the soil or from length of occupancy is considered as stronger than that of other raiyats and they generally pay the highest rent for the lands which they hold. The paikasht on the contrary rent land belonging to a village in which they do not reside. They are considered as tenants-at-will and having only a temporary and accidental interest in the soil which they cultivate will not submit to the payment of so high a rent as the preceding class of raiyats and when oppressed easily abandon lands to which they have no attachment" (Harington's Analysis, Vol. II, pp. 62-64.)

Q. 24. My Association does not subscribe to the view that the cultivating raiyats have always been the actual proprietors of the soil and the rents paid by them to the State were a form of tax for affording protection to their person and property and for carrying on the administrative machinery. It is no doubt true that the State affords protection to the subjects and has to carry on the administrative machinery; but to say that rent is a form of tax is to ignore the special characteristics of rent and taxes.

My Association has already pointed out that the king was the ultimate proprietor of all lands within his domain during Hindu times. Gautama said that the king was the master of all except the priests. In the *Arthasastra* of Kautilya the proportion of produce of land which was payable to the king is said to be in lieu of rent. Various taxes are mentioned therein and the Collector-General was charged with collecting rents and taxes from Crown lands and other sources of income mentioned therein. There were also many minor dues and cesses connected with the produce of land. That in Hindu times the cultivators were not proprietors of soil will be apparent from the *Arthasastra* of Kautilya, that if a cultivator does not cultivate his land he may be ejected from the holding and another tenant may be inducted in his place or the land may be let out to traders or servants of the village. (Arthasastra, Chapter XIX, Dr. Julius Jolly's Edition.)

Megasthenes writes, "The whole of the land is the property of the king, and the husbandmen till it on condition of receiving one-fourth of the produce." (Mr. Crindle's Ancient India as described by Magasthenes and Arrian, p. 84.) India was at many periods of history subject to many frequent invasions from outside. It stands to reason that the conquerors would claim absolute proprietorship in land to the exclusion of the rights of the zamindars or tenants or other holders of interests in land. It cannot be said that these conquerors would not be claiming any interest in the soil but would rest contented with levying a tax on the raiyats for the protection afforded to them or for carrying on the administration.

In Muhammadan times, the conquerors brought with them the theory of the Persian Sovereigns of the *Sowad* that something like partnership existed in the produce between the sovereign and the cultivator like the metayer system in some European countries. A contract for such a division of the produce was called *Mazaraut*. The analogy in the khiraj to such a contract depended upon the sovereign taking a proportion of the actual produce; and according to that analogy the sovereign was the original proprietor of the land (Baillie's Land Tax, XVII). It was in pursuance of such a theory that during Akbar's time the revenue regulations of Todar Mal provided how much of the produce is to be appropriated by the Government and how much by the raiyats. The mere appropriation of a share of the produce by the Government does not show that it was merely as a tax.

My Association thus finds that both under the Hindu and Muhammadan Government the State appropriated a share of the produce as a *bali* or *kar* which may mean rent as well as tax. A distinction was always made between rent and tax. Various sorts of duties or taxes are mentioned in the Arthasastra of Kautilya. They are to be distinguished from rent as the paramount power had always the right to eject the cultivators under certain circumstances. That shows though the share of produce taken might have been appropriated for carrying on the administration or for affording protection to the cultivators which is the essential duty of every Government but that does not show that the State had not right to the soil. If the cultivators were the actual proprietors, how is it that they were ousted even for non-payment of rent? My Association may mention here that according to Abu Hanifa the sovereign was the absolute proprietor of all the soil and that all other rights existed by sufferance. When a country was conquered the conqueror was considered a proprietor of the land and the doctrine of Abu Yusuf is that a khiraj should be levied as a punishment, the land being considered as lapsed for infidelity. The Muhammadan who came here as conquerors did never relinquish their claims of right to the soil.

When the British came to India they brought with them the impression which they had derived from their own law, namely, that the proprietorship or actual ownership of the land always resided in the sovereign. (Stephen's Blackstone, Book II, Part I, Chapter II; Maine's Village Communities, Lecture IV and preamble to Regulation II of 1793.) It will thus be seen that at no period of history were the cultivators the absolute proprietors of the soil so that the amount paid was not a tax but a rent. Marshall in his famous book on Economics writes, "The ownership of land is vested, not in an individual but in the firm of which one member or group of members is the sleeping partner while another member or group of members is the working partner. The sleeping partner is sometimes the ruler of the State, sometimes he

is an individual who inherits what was once the duty of collecting the payments due to the ruler from the cultivators of a certain part of the soil, but what in course of time has become a right of ownership, more or less definite, more or less absolute. If as is generally the case, he retains the duty to make certain payments to the ruler of the State, the partnership may be regarded as containing 3 members of which 2 are sleeping partners." If what is paid by the metayers in Europe is rent, then my Association does not see why the share of produce which the sovereign took in India as due to him would not be rent.

Q. 25. My Association is not in favour of extending the principle of creating more tenants with right of occupancy nor should the occupancy right be allowed to more than one grade of tenants. The right of occupancy should be given solely to that class of tenants who actually cultivate the soil whether he is a raiyat or an under-raiyat. If he is an under-raiyat he may acquire the right of occupancy as at present, but then his superior landlord, the raiyat, should not then have the same right of occupancy.

Q. 26. It should be the policy of law not to encourage sub-letting by raiyats. The actual cultivator of the soil who produces the crops must be given such interest in the land as will induce him to improve the land or maintain it in an efficient condition. This may be done only by conferring the right of occupancy on the actual cultivator of the soil.

(*a*) If by the word "tenant" is meant raiyat my Association would say that the raiyat who partly cultivates his own land and partly sub-lets the rest should be deemed to be a raiyat with a right of occupancy only with regard to the land which he cultivates. If after acquiring occupancy right in the land he cultivates, he sublets a portion of it to an under-raiyat he must limit the period of his sub-lease to less than 12 years; otherwise his occupancy-right will cease to exist with regard to the land he has sub-let and the under-raiyat who cultivates the land for more than 12 years would not be ejectable as in section 48-C of the Bengal Tenancy Act.

(*b*) If the raiyat wholly sublets his land, this sub-lease also must be limited to a period of less than 12 years. It is by such measures alone that sub-letting by an under-raiyat may be prevented. By sub-letting the entire land to the under-raiyat a raiyat converts himself to a tenure-holder. It is no use enhancing the number of tenureholders in this way specially if the raiyat had already acquired a right of occupancy. There is no reason why there should be a differentiation made between such raiyat and a tenureholder. The tenureholder is in a worst position than a raiyat with right of occupancy in many respects specially with regard to enhancement of rent.

Q. 27. The object of this question is not clear. It may mean—(1) was it the intention of the Permanent Settlement to give protection to

non-agriculturists cultivating agricultural lands, or (2) was it the intention of the Permanent Settlement to give protection to non-agricultural tenants cultivating non-agricultural lands?

The Permanent Settlement provided that as a ruling power the Government would enact such Regulations as it thinks necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil. If the dependent talukdars, raiyats and other cultivators of the soil are non-agriculturists, still they will fall within the categories abovementioned and they will be entitled to protection from Government. But if these non-agriculturists are neither dependent talukdars, nor raiyats nor other persons who actually cultivated the soil, the Permanent Settlement did not reserve any power to the Government to afford them protection.

(1) If the non-agriculturists hold agricultural land and fall within the denomination of the dependent talukdars, raiyats and other cultivators of the soil the Government has power to protect them. It may be mentioned here that the Bengal Tenancy Act has already afforded them sufficient protection. It is however a well-known economic principle that if the interest of farms conflict with that of the farmers, the latter will go. The Bengal Tenancy Act has provided for the unrestricted transfers of holdings, but the hereditary cultivators are proverbially poor and are overburdened with debt. They are indebted to the mahajans or to a capitalist class most of whom are not cultivators. As they are not *bona fide* husbandmen and as they are trying to find out a way for investing their capital the lands will be purchased by them and cultivation is bound to deteriorate. In this way more and more lands will be acquired by the non-agriculturists who will really be middlemen in respect of the lands purchased by them. A true peasant is one who remains a peasant. It is therefore not desirable that land should go to the mahajans. The Government should therefore take steps to protect the actual cultivators of the soil.

(2) With regard to non-agricultural lands, my Association does not think that the Permanent Settlement intended to give protection to the tenants of such lands.

My Associaion is not in favour of giving occupancy-rights to tenants of those lands which are non-agricultural unless these tenants erect pucca buildings on those lands or otherwise improve them at a great cost.

Q. 28. If agricultural lands are converted to use for non-agricultural purposes and at the same time are used for trading or manufacturing purposes or other purposes which bring profit to the holder the statutory right originally given for protection of the interest of the cultivators may be allowed to continue, that is, the agricultural lands

which have been converted to another purpose must add to the wealth of the community.

According to John Stuart Mill: "Though it is a principle of taxation that it should fall on income and not on capital, all taxes are in some sense partly paid out of capital; and in a poor country it is impossible to impose any tax which will not impede the increase of national wealth." Any levying of additional tax would thus impede the national wealth in Bengal which is a poor country. If it is not intended that Bengal will forever remain an agricultural country and will never turn to manufactures or other sources for increasing income then some agricultural lands will necessarily have to be converted to use for non-agricultural purposes. Any imposition of an additional tax will necessarily prevent the incentive to its being converted to use for non-agricultural purposes. If however the profit from that land is so great that an additional tax may be imposed on the profits of the business without affecting it or hindering its expansion then such additional tax may be imposed, not on the land but on the business.

The land tax if at all imposed should bear a certain proportion to the rent; if such proportion is low and if at the same time the valuations of the taxable profit of the land did not take place every year but only once in 10 or 20 years, the impeding action of the land tax upon land improvement would then be scarcely discernible.

Q. 29 & 30. Though my Association cannot definitely say as to whether the total number of bhagchasis in this district has increased or not as it has not been possible within this short time to collect the statistics, still it is very probable that their number is continually on the increase.

(1) The suggestion that such increase is partly due to the fact that the Amendment Act of 1929 has not given the bhagchasis any statutory right seems to be sound. Before this amending Act, the landlords and tenureholders were very unwilling to employ bhagchasis, specially for a number of years on the well grounded apprehension that they may acquire the status of an occupancy raiyat or even of a non-occupancy raiyat and then it would not be possible for the landlords to oust them from the land. As a matter of fact in the District Settlement Records a number of bhagchasis has been recorded as occupancy raiyats and the raiyats who have employed them had been recorded as tenure-holders. The bhagchasis are existing from time immemorial and they have been mentioned even in the Arthasastra of Kautilya. According to immemorial custom they are a particular class of labourers and the apprehension that they may acquire the status of tenants under the Bengal Tenancy Act was responsible in a great measure for the unwillingness of the landlords to employ them as extensively as they might otherwise have been. This apprehension having been removed by the

Amending Act of 1929, the landlords now employ them more extensively than before.

(2) The suggestion that the increase of bhagchasis has been partly due to the fact that in many cases the occupancy holdings have been transferred to non-agriculturists owing to the facility of transfer given by the Amending Act of 1929 is also well grounded on fact. It has been pointed out before that there is much surplus capital nowadays in Bengal seeking investment. The persons who possess such capital advance them to agriculturists who in course of time being overburdened with debt have no other option than to transfer their holdings to such persons. Though the right of pre-emption was given to the landlords by the Amending Act of 1929 this right has been very sparingly exercised and the non-agriculturists therefore became the owners of holdings. Not having any experience of cultivation and in some cases as they live elsewhere these non-agriculturists have no other alternative than to employ bhag chasis for the cultivation of their lands.

(3) The suggestion that there has been an increase in the cultivation on the barga system of holdings which raiyats have sold during the economic depression in order to meet their financial liabilities is only partly correct. My Association has met with very few of such cases.

It may be pointed out here that in consequence of economic depression prevailing throughout the province the price of paddy has gone down to a considerable extent. The tenants now find that it is easier for them to pay rent in kind than to pay rent in cash, as there is no proper market for the produce. In bhag system the bargadars find it convenient to pay the share of the produce to their employers and thus be free to enjoy the remaining portion of the produce which they have got by cultivation. Those who are tenants therefore also find it convenient to cultivate other lands in bhag if and when they find leisure to do so.

Q. 31. In this district a maximum area held by the bargadar does not exceed one and a half acre. It may be said that normally they hold half the above area.

There is a class of persons who live by cultivating in bhag others' lands. But the majority of the bargadars appear to be raiyats or under raiyats of others' lands.

Q. 32. My Association does not think that the right of occupancy and other rights should be extended to bargadars. Those who cultivate in bhag are generally found inefficient. It is therefore that the landlords often have to change bargadars and try other persons. Besides this, those who employ bargadars generally wish to preserve the land as their khas lands wherein no other interest can accrue. The granting of occupancy right and other rights to the bargadars would

prevent them being employed as bargadars in such khas lands. Thousands of people who now earn their livelihood as bhag chasis would thus be thrown out of employment and their distress would be appalling.

Raiyats and even under-raiyats have, owing to the exigencies of circumstances, to employ bhagchasis temporarily, that is for a year or two and then they resume cultivation by themselves. If the bhagchasis are given interests even when they are temporarily employed in the above manner that would operate as a great hardship on such raiyats and under-raiyats who are forced by circumstances to employ them temporarily. Granting of interest to such bhag chasis would only encourage subinfeudation which in such cases it should be the policy of the law to prevent.

The bhagchasis have been working on the present terms from time immemorial. They have been working well from a long time past and foreign travellers who had occasion to see the bhag chasis as well as other tenants have spoken in one voice that they were a contented lot. Even now they do not complain of their alleged hard lot. This system is also prevalent in England and in the Continent. In Italy they even pay two-thirds of the produce. The picture of such metayers of Italy as portrayed by many writers is not one of poverty. John Stuart Mill has taken great pains to quote from well-recognised authors about the condition of the metayers in Italy; and it would be superfluous to quote him at length. The bhagchasis have a plain interest that the whole produce should be as great as possible in order that their own proportion may be so and this has been pointed out by Adam Smith in his "Wealth of Nations."

The bhagchasis do not require any special protection—all the protection they require is that once they have begun the cultivation they should not be disturbed or interfered with so long as the harvest is not reaped and the produce divided.

Q. 33. My Association does not see why the barga system is not economically sound. It has worked well in practice not only in India, but as has been pointed out before, in Europe also. My Association is aware that many English writers have deprecated the system. But the condition of the metayers in Italy has been pointed in glowing colours by many writers. There the farms cultivated by the metayers generally do not exceed 60 acres in area and are never less than 10. The whole point is how much area a bhagchasi can cultivate in India. If he be kept fully occupied, there is no reason why his condition should be miserable.

According to Mr. Chateanvieux, "It occupies and constantly interests the proprietors which is never the case with great proprietors who lease their estates at fixed rents. It establishes a community of interest, and

relations of kindness between the proprietors and metayers; a kindness which I have often witnessed and from which result great advantages in the moral condition of society. The proprietor under this system, always interested in the success of the crop, never refuses to make an advance upon it, which the land promises to repay with interest. It is by these advances and by the hope thus inspired, that the rich proprietors of lands have generally perfected the whole rural economy of Italy. It is to them that it owes the numerous systems of irrigation which waters its soil, as also the establishment of the terrace culture on the hills; gradual but permanent improvements which common peasants, for want of means, could never have effected, and which could never have been accomplished by the farmers, nor by the great proprietors who let their estates at fixed rents, because they are not sufficiently interested. Thus the interested system forms of itself that alliance between the rich proprietors whose means provide for the improvement of culture, and the metayer, whose care and labour are directed by a common interest to make the most of these advances." (Letters from Italy, pp. 295, 296.)

Mr. Sismondi has painted in glowing colours the conditions of metayers of Tuscany. According to him the rights and obligations of metayers being fixed by usage and all taxes and rates being paid by the proprietors. "The metayer has the advantages of landed property without the burden of defending it. It is the landlord to whom, with the land, belong all its disputes; the tenant lives in peace with all its neighbours; between him and them there is no motive for rivalry or distrust; he preserves a good understanding with them as well as with his landlord, with the tax-collector, and with the church; he sells little and buys little; he touches little money but he seldom has any to pay. The gentle and kindly character of Tuscans is often spoken of, but without sufficiently remarking the cause which has contributed most to keep that gentleness; the tenure, by which the entire class of farmers, more than three-fourths of the population, are kept free from almost every occasion for quarrel."

Q. 34. The effect of giving occupancy rights to bargadars has already been discussed above. Not only the zamindars but the tenure-holders, raiyats and under-raiyats all employ bargadars. The effect of giving occupancy rights to bargadars will necessarily be anomalous and not only the zamindars but the tenureholders, raiyats and under-raiyats nobody will employ bargadars. The result necessarily will be that a large number of people will be thrown out of employment as my Association has pointed out before.

Q. 35. My Association thinks that half and half proportion is the most equitable proportion, as is amply proved by the fact that this proportion prevails at least from the time of Kautilya (4th Century B.C.).

My Association is aware that in some cases a higher proportion is realised by employers of bargadars where the employers supply manures, etc., and in many instances the bhagchasis have to pay half of the paddy and straw produced. The bhag chasis have not complained in such cases.

The maximum limit may be fixed at half of paddy and straw to be the landlord's share of the produce.

Q. 36. The wages of agricultural labourers in this district ranges from 4 annas 6 pies per diem in the case of labourers of the village to annas 3 per diem in the case of Santhal labourers. So far as my Association has been able to ascertain the economic position of these agricultural labourers of the village is slightly better than that of the bargadars and is almost equal to that of the under-raiyats. It may be mentioned here that the wages of the labourers have been reduced to nearly two-thirds of the wages received by the labourers before the economic depression. The bargadars also in their leisure hours act as agricultural labourers. The Santhal labourers are largely employed nowadays owing to the fact that they are more sturdy and are satisfied with far less wages. The economic position of these Santhal labourers is not better than that of the bargadars or the under-raiyats. The one great defect in these labourers, bargadars and under-raiyats is that they are all improvident. The economic position of each of them depends more or less on the degree of improvidence.

Q. 37. My Association thinks that though by the Amending Act of 1929, unrestricted right of transfer was given to the occupancy raiyats, the compulsory payment of landlords' fee and the granting of right of pre-emption controlled the passing of considerable areas of raiyati lands to other persons. That many non-agriculturists purchased raiyati lands on account of this right of transfer there can be no question. The landlords at the same time having the right of pre-emption were in a position to check such transfers and choose their tenants. The cultivators are poor and have been rendered poorer by economic depression. Hence the raiyati lands, where transfer has been made, have passed to non-agriculturists in many instances. But it cannot be said that transfers have taken place with respect to considerable areas of raiyati lands. Holdings have been subdivided or sublet thus leading to minute division of parcels of lands below an economic unit.

It is too early to pronounce any opinion on the result of the facilities of transfer given by the Act of 1938. My Association however already discerns some tendency in this direction. That this will be prejudicial to the interest of the cultivating raiyats as a whole admits of no doubt. Raiyats being allowed unrestricted transfers of land, undesirable persons will come in leading to eternal conflict between landlord and tenant. Even now instances are not rare of raiyats making benami

dispositions of their property in favour of litigious persons to put the landlords into troubles. Besides this, it is a well-recognised principle of economics that if the interest of farms conflict with that of the farmers the latter will go. The raiyats will soon lose their lands to the mahajans or capitalists who are non-agriculturists and cultivation is bound to deteriorate below an economic unit. Further, unrestricted transfer results in the accumulation of more land in the hands of a peasant than he may cultivate himself; this also leads to deterioration of cultivation. A true peasant is one who remains a peasant. He should not be a middleman in respect to any portion of a holding. If the transfer is made of a portion of holding more than once, the holding deteriorates below an economic unit. Further, unrestricted transfer brings in new set of tenants who may not perform their obligations and may endanger security of tenure. The cultivating raiyats being improvident and over-burdened with debts, the holding will pass to the hands of persons who have sufficient money and are not finding ample scope for their investment. These men will not be able to cultivate the land themselves and they will either employ bhagchasis or let it out to others thus leading to further subinfeudations. The lands will deteriorate and the landlords will have to remain indifferent spectators of the deterioration of their properties. When the lands will deteriorate they will not bring much profit. They will be sold away again and the cry will be raised that the rent assessed is high and should be reduced. One effect of cultivation by bhagchasis is that they have no means of properly manuring the land and this leads to deterioration. In the interest of the holding and of the cultivating raiyats it is necessary that this right of transfer should be restricted and it should be restricted to agriculturists or *bona fide* husbandmen only.

My Association however considers that such restriction will lead to depreciation of the value of the holdings as the number of available purchasers will be limited. If the value of the holding decreases the credit of the agriculturists will also be limited. It may be mentioned here that the rural credit has almost been destroyed by the Bengal Agricultural Debtors Act.

My Association considers that if before transfer made by cultivating raiyats a provision is made that they should obtain the permission of a Revenue Officer having jurisdiction over the area who on application made by the cultivating raiyat shall make enquiries from the landlord, the raiyat, the President of the Union Board or other men having knowledge of the locality of the intending transferee as to whether such transfer is likely to be beneficial to the holding or other necessary points and then give the permission. In case of involuntary sales the decree-holder is to apply for permission to the Revenue Officer who shall make similar enquiries and is to give permission before the sale. If no such permission is taken before sale, the purchaser after sale, shall make

a similar application to the Revenue Officer and the sale shall not be confirmed unless such permission is obtained.

My Association would point out that the provisions of the Punjab Land Alienation Act seem to be more strigent. Such of its provisions, however, as may be applicable to the circumstances of our province may be adopted with requisite modification.

Q. 38. In Ireland, Mr. Blacker, one of the most experienced agriculturists and successful improver in the North of Ireland whose experience was chiefly in the best cultivated parts, which were also the most minutely divided parts of the country, was of opinion that tenants holding farms not exceeding from 5 to 8 or 10 acres could live comfortably and pay as high a rent as any large farmer whatever—(Prize Essay on the Management of Landed Property in Ireland by William Blacker quoted in Mill's Political Economy).

In this country, if we take an average peasant family to consist of 5 members as has been done by the Banking Enquiry Committee the minimum size of an economic holding cannot be less than 4 acres. The gross produce per acre as has been calculated from the office of the Land Revenue Commission is Rs. 49. If we deduct from it one-third as the cost of production (as has been done in the Bengal Tenancy Act, section 32) and Rs. 3 the average rent per acre, Rs. 30 remain as profit to the raiyat. In 4 acres, the profit then comes up to Rs. 120 per annum, if the present system of cultivation continues. This amount may be barely sufficient for supporting the family. At the same time if we adopt the economic principle that every tenant, who extracts from the land more than his own food and that of any family he may have, increases the means of supporting a non-agricultural population. We shall have to add one more acre to the minimum size of the holding. It seems best for the economy of production that farms should be as large as practicable so that it may occupy fully the time of the cultivator. In case of small holdings the raiyat's time and plough are not sufficiently occupied. As he is not fit to do other work and has no training for the same, much time and energy will otherwise be lost to the country.

Q. 39. It is doubtless true that the size of many raiyati holdings is uneconomic. ".....subdivision of land," says John Stuart Mill, "often amounts to a great evil, but this applies fitly to a subdivision so minute that the cultivators have enough lands to occupy their time. Up to that point the same principles which recommend large manufactories are applicable to agriculture. For the greatest productive efficiency, it is generally desirable that no family who has any land should have less than they could cultivate or that would fully employ their cattle and tools." In another passage he says, "One of the objections most urged against small farms is that they do

not and cannot maintain, proportionate to their extent, so great a number of cattle as large farms and that this occasions such a deficiency of manure that a soil much divided must always be impoverished. It will be found however that subdivision only produces this effect when it throws the lands into the hands of cultivators so poor as not to possess the amount of live-stock suitable to the size of their farms."

There is no doubt that the laws of inheritance, the statutory rights of transfer and the increase of population are all tending to further subdivision and fragmentation of holdings. These causes also lead to the dwindling away of profits as the same land has to maintain more and more families which arise out of the parent stock specially in the case of Muhammedan families, such division and fragmentation of holdings lead to much waste of time and energy as has been pointed out before. Cultivation of a certain area in one plot takes less time than the cultivation of the same area broken up into small plots bounded by ails and is far more economic.

Q. 40. That consolidation of some holdings is desirable there can be no question. At least those holdings which are below the minimum size of an economic holding should be consolidated. But it is very difficult to render this theory into practice. One solution is co-operation amongst the cultivators concerned; but such co-operation in a village, torn as it is at present, by rival factions, is not likely to last long. If the cultivators combine to start a co-operative society for the purpose of co-operative farming, it may go a long way to consolidate holdings, unless the members break away from the society or are expelled. In co-operative farming there advantages as well as disadvantages. It is possible to resort to improved method of farming in co-epartive farming; tractors may be brought in and this method may relieve the population by increased production. But at the same time, the ails which form the boundaries of parcels of lands must be done away with and it would not be possible in future to distinguish the property of one from that of the other. If any one wishes to borrow money on hypothecating his properties, this may not be possible owing to the fact that his lands are no longer identifiable. In such cases rural credit may shrink to an alarming extent. Such farming is also not possible unless more than one village combine. A village in Bengal consists of a fluctuating body of persons. There would always be great difficulty when one or several persons would wish to migrate into another village or when other persons would decide to come in. The conflict of social interests that always exist in a Bengal village may make the matter more complex. Besides this, co-operative farming requires a degree of literacy, intelligence, knowledge and honesty which are generally absent in a village. This has been the real cause of deadlock in the co-operative movement, which has hitherto proceeded on the easiest lines by starting credit

societies. If these do not flourish it is too much to expect that co-operative farming will make much headway. It will be looked upon with great suspicion when it will proceed to demolish the ails.

Another mode would be to institute enquiries by a Revenue Officer as to what holding should be consolidated. The Revenue Officer should go to the locality and consider the circumstances, position, productive power, affinity, etc., of each small plot of land and recommend its consolidation with others. He should secure the consent of the owners of such plots in the first instance and if that is not possible, they may be compelled to consolidate by law. If they refuse, they would be compelled to exchange the land for another or sell it in the last instance by legislation. Provision is to be made that the joint owners of economic holding will never be able to subdivide the holding; but their respective interest in the holding must be fixed and ascertained at the time of consolidation. These interests may be alienable and saleable but the economic holding is not to be subdivided. This mode would solve the difficulty for a time; but after one generation, the burden on the holding would greatly increase and continue to be greater unless some other solution can be found or the productivity of the land increased, or a limitation is put on the family.

Q. 41. My Association is willing to give special facilities to a cultivator to consolidate his holding. In some cases, this may be possible by exchange; but increase in size by purchase would be possible in a very limited number of cases. The majority of the cultivators are so poor that they cannot afford to purchase properties. Even if they are in a position so to purchase, the cultivators who will have to sell a property for facility of consolidation may not find a suitable land for purchase and cultivation. In such cases they may be thrown out of employment and put to great distress. If they got cash money it is likely that they would soon spend it owing to improvidence or part with it owing to the importunities of their creditors. The best thing, therefore, is exchange; though in many cases, there would be great grumbling or discontent if a cultivator is made to part with an adjacent land for a distant one.

It may be mentioned here that there is no reason why the landlords would not grant the cultivators facilities for consolidation of the holdings. If there is minute subdivision of land, the landlord's rent roll is bound to be extremely large and often unmanageable. He will have to undergo permanent expenses for calculating his dues from a large number of separate tenants in place of a limited number. His security for rent would increase if several parcels are made jointly liable for an economic holding. It seems best for the economy of production that farms should be as large as practicable under the existing conditions of land tenure so as to give room for the exercise of great

ability on the part of the farmer. According to Marshall, while a large farmer who has some rich land can turn poor soil into good account, small holdings will not flourish except on good soil. Their gross retail per acre must therefore be always higher than that of large farms.

Q. 42. There has been an age-long controversy over the question as to whether *grande culture* or *petite culture* is best for a country. The current of English opinion is in favour of large farms; on the Continent the weight of authority seems to be on the other side. M. Passy gives his verdict in favour of large farms for grain and forage; but for the kinds of culture which require much labour and attention places the advantage wholly on the side of small cultivation. According to John Stuart Mill, "Land occupied by large farmer is not, in one sense of the word, farmed so highly. There is not nearly so much labour expended on it. This is not on account of any economy arising from combination of labour, but because, by employing less a greater return is obtained in proportion to the outlay. It does not answer to any one to pay others for exerting all the labour which the peasant, or even the allotment-holder, gladly undergoes when the fruits are to be wholly reaped by himself. This labour however is not unproductive; it all adds to the gross produce. With anything like equality of skill and knowledge, the large farmer does not obtain nearly so much from the soil as the small proprietor, or the small farmer with adequate motives of exertion; but though his returns are less, the labour is less in a still greater degree, and as whatever labour he employs must be paid for, it does not suit his purpose to employ more."

My Association thinks that in India accumulation of large areas in one particular hand is not desirable. That would convert the holder of such area into a tenureholder as there would be an accumulation of far larger than he could himself cultivate. According to M. de Lavergue, "In some places, in the neighbourhood of Paris, for example, where the advantages of *grande culture* become evident, the size of farms tends to increase, several farms are thrown together into one, and the farmers enlarge their holdings by renting *parcelles* from a number of different proprietors. Elsewhere farms, as well as properties of too great extent, tend to division. Cultivation spontaneously finds out the organisation which suits it best."

Undue subdivision and excessive smallness of holdings are undoubtedly a prevalent evil but the accumulation of large areas in one hand may be no less so. The Governments of Bavaria and Nassan have thought it necessary to impose a legal limit to subdivision and the Prussian Government unsuccessfully proposed the same measure to the estates of its Rhenish provinces.

"The English farmer of 700 to 800 acres is a kind of man approaching to what is known by the name of a gentleman farmer. He must have his horse to ride, and his gig and perhaps an overseer to attend to the labourers; he certainly cannot superintend himself the labour going on in a farm of 800 acres. Besides all these drawbacks; which the small farmer knows little about, there is the great expense of carting out the manure from the homestead to such a great distance, and again carting home the crop. A single horse will consume the produce of more land than could feed a small farmer and his wife and two children and what is more than all, the large farmer says to his labourers 'go to your work'; but when the small farmer has occasion to hire them he says, 'come'; the intelligent reader, I dare say, will understand the difference." (Blacker's Prize Essay on the Management of Landed Property in Ireland quoted in Mill's Principles of Political Economy).

In the Bengal Tenancy Act it has been provided that a man possessing more than 100 standard bighas would be presumed to be a tenure-holder, that is, he is unable to cultivate the lands himself. My Association suggests that a similar area, say 30 acres, should be the limit of such accumulation.

My Association has already suggested a remedy in reply to question 38. The same remedy may be applied when it is sought to accumulate in one hand larger areas than is desirable.

Q. 43. My Association thinks that ordinarily coparcenary is not detrimental to good cultivation. If coparceners live in amity and if there is co-operation amongst them there is every reason that the work of cultivation would be well conducted. But if there is querrel and discord, if there is no co-operation between the coparceners then the work of cultivation is likely to suffer. In a coparcenary the number of workers available is greater but the cause for friction is also great. This evil can be minimised without interference of the laws of inheritance by subdivision, where it does not come below an economic holding. In other cases it may be checked by prudential consideration.

Mr. Sismondi says, "In the countries in which cultivation by small proprietors still continues, population increases regularly and rapidly until it has attained its natural limit: that is to say, inheritances continue to be divided and subdivided among several sons, as long as, by an increase of labour each family can extract an equal income from a smaller portion of land. A father who possessed a vast extent of natural pasture, divides it among his sons, and they turn it into fields and meadows; his sons divide it among their sons who abolish fallows; each improvement in agricultural knowledge admits of another step in the subdivision of property. But there is no danger lest the proprietor should bring up his children to make beggars of them. He knows exactly what inheritance he has to leave them: he knows what the

law will divide equally among them; he seized the limit beyond which this division would make them descend from the rank which he has himself filled, and a just family pride, common to the peasant and to the nobleman, makes him abstain from summoning into life children for whom he cannot properly provide. If more are born, at least they do not marry, or they agree among themselves which of several brothers shall perpetuate the family; it is not found that in the Swiss Cantons the patrimonies of the peasants are ever so divided as to reduce them below an honourable competence; though the habit of foreign service by opening to the children a career indefinite and uncalculable, sometimes calls forth a superabundant population." The method advocated herein may be adopted.

"The habit of not dividing properties," said Dr. Rau (in his book in "the Agriculture of the Palatinate and particularly in the territory of Heidelburg") "and the opinion that is advantageous, have been so completely preserved in Flanders that even now, when a peasant dies leaving children they do not think of dividing in patrimony, though it be neither entailed nor settled in trust; they prefer selling it entire and sharing the proceed considering it as a jewel which loses its value when it is divided. This method may be adopted when the holding is capable of subdivision or becomes less than an economic holding on subdivision. Some co-sharers also may be compelled to sell their shares to one amongst them to keep intact the size of an economic holding; or all of them may let out the holding to one of them for the purpose of cultition. This latter mode, however, is not so desirable as the former, and should be resorted to in the last instance.

Q. 44. The same remedies may be adopted by the zamindars and tenureholders to stop fragmentation of estates and tenures, as in the case of holdings. A common manager may also be appointed on behalf of the zamindars or tenureholders who will manage the estates or tenures and distribute the profit amongst the co-sharers. This will reduce the expense of collection and other costs incident to management; one of the co-sharers may be appointed manager to reduce costs. Such an arrangement may also remove all causes of friction between the co-sharers. This mode is prevalent to some extent in Bengal.

Q. 45. My Association does not think it desirable to compel all co-sharer landlords by legislation to arrange for collection. It is only those co-sharer landlords who own a minute fraction of the entire estate or tenure who may be made to combine for the purpose of collection. This will be advantageous both to the landlords and the tenants. But there are great drawbacks to combination by legislation. There is likely to be a feeling of resentment amongst all co-sharers who are compelled to combine. There might have been discord or bitter feeling or jealousy existing between all persons compelled to combine, so

that combination may become impossible. They may also greatly resent the imposition of a person as a manager by legislation. Who is to choose the manager? What would be the relationship between the manager and the co-sharers? To whom is he to be accountable? Would he be liable to removal and if so, by whom? These are difficulties to be solved. If a committee be formed by election amongst the co-sharer landlords there must be some co-operation amongst them which may be absent in compulsory co-operation by legislation. All that legislation may do is to provide facilities to the co-sharer landlords to combine voluntarily.

Q. 46. In the opinion of my Association though it was expressly laid down in Regulation I of 1793 that the zamindars will exert themselves in cultivation of their lands which means that one of the modes of increasing their income would be extension of cultivation, still there was no bar to increasing their income by enhancing the rates of rent payable by tenants at the time of the Permanent Settlement. It has been pointed out before that there were khudkasht raiyats and paikasht raiyats. There was no bar to the enhancement of rent paid by the paikasht raiyats at any time; as regards the khudkasht raiyats shall presently discuss.

Before doing so it would be profitable to refer to what was done in Moghul times before the British occupied the country. Besides receiving the nankar the zamindars absorbed the other emoluments of the village headman. The zamindars also appropriated, as part of his perquisite, the purjote or mohturfa the fees paid by the non-agricultural members of the village community, also the rights known as jalkar, bankar, ghaskar and falkar. He took a share of seer of each maund of grain; and an anna and a half or two annas on a kuchha bigha, or half bigha, or other produce. He also took half an anna in the rupee in the money revenue which was paid by each cultivator to him as his zamindarana or malikana. These dues were collected by the zamindar direct from the raiyats as his perquisites over and above the amount paid as the Government share. (Land Tenure by a Civilian, pp. 60, 69, 70, 86). These sums did not in consequence appear in his account with the Government but appeared in the accounts with the cultivation or the village under the head of siwai. They were originally allowances for the risk and trouble of collection although the zamindar added to these many other sources of remuneration.

There were two modes in which the enhanced assessment was fixed according to Mr. Shore. One of these was to add the subsequent abwabs and exactions by the zamindars (calculated at so much a month, or so much in the rupee) to the asal or original rate and then to distribute this according to the quantity and quality of land held by the raiyats, or the estimated or actual crop. The other mode was

to assess at a fixed rate for the bigha, whatever be the crop, which rate included the chief item of exaction or extra assessment (Fifth Report, Vol. 1, p. 140).

Mr. Shore observed—"the rules by which the rents were demanded from the raiyats are numerous, arbitrary and indefinite; that the officers of Government possessing local control, are imperfectly acquainted with them, whilst their superiors, further removed from the detail, had still less information; that the rights of the talukdars dependent on the zamindars, as well as of the raiyats, are imperfectly understood and defined; that, in common cases, we often want sufficient data and experience, to enable us to decide with justice and policy, upon claims to exemption from taxes; and that a decision erroneously made may be followed by one or other of these consequences; a diminution of the revenues of Government or a confirmation of oppressive exactions. The necessity of some interposition, between the zamindar and the tenants is absolute; and the Government interferes by establishing regulations for the conduct of the zamindars, which they are to execute; and by delegating the authority to the collectors to enforce their execution. If the assessment of the zamindaris were unalterably fixed and the proprietors, were left to make their own arrangements with the raiyats without any restrictions, injunctions, or limitations, which indeed is a result of the fundamental principle, the present confusion would never be adjusted. This interference, though so much modified, is in fact an invasion of proprietary right, and an assumption of the character of landlord which belongs to the zamindar; for it is equally a contradiction in terms to say that the property in the soil is vested in the zamindar, and to have the right to regulate the terms by which he is to let his lands to the raiyats, as it is to connect that avowal with discretionary and arbitrary claims. If the land is the zamindar's it will only be partially his property whilst we prescribe the quantity which he is to collect, or the mode by which the adjustment of it is to take place between the parties concerned." (Harington's Analysis, Vol. III, p. 397.) My Association too thinks that if there was any intention to limit the rights of the zamindars to enhance the rent of their tenants, that intention would be contrary to the avowed intention of the Government to confer absolute power on the zamindars as will distinctly appear from the resolutions.

That there was some intention that the rents of the raiyats may be enhanced by the zamindars will appear from the Minute recorded by Lord Cornwallis on the 3rd of February 1790. His Lordship observed, "that every bigha of land cultivated by the raiyats must have been cultivated by an express or implied engagement, that a certain sum should be paid for each bigha and no more, and that the rents of estates can only be raised by inducing the raiyats to cultivate the more valuable articles of produce or clearing the extensive tracts of waste

lands which are to be found in almost every zemindary in Bengal." Here His Lordship is referring expressly to contractual rents and the maximum limit imposed by such contract and to increase of rent by cultivating more valuable articles of produce or for increase of the area of cultivation.

Regulation VIII of 1793 does not speak of any enhancement but provides for engagements entered into by the zamindars regarding the lands which were not let out to dependent talukdars at the time, in section 52. With regard to these lands it was provided that all abwabs, mahtuts and other impositions should be consolidated with asal jama into one specific sum and the sum thus arrived at would be rent payable by the raiyat. It was also provided that the zamindars were to grant pattas to the raiyats which shall be specific as to amounts and conditions. The rents paid by the raiyats by whatever rule or custom they may be regulated shall be specifically stated in the pattas which in every possible case shall contain the exact sum paid by them. In section 60, it was provided, "No actual proprietor of land or farmer or persons acting under their authority shall cancel the pattas of khudkast raiyats except upon proof that they have been obtained by collusion or that the rents paid by them within the last three years have been reduced below the rate of the nirikbandi of the pargana or they have obtained collusive deductions or upon a general measurement of the pargana for the purpose of equalising and correcting the assessment." In this section it is distinctly contemplated that the pattas may be cancelled if the rate of rent mentioned therein is below the rate of rent prevalent in the pargana or if on general measurement of the pargana it was found that the rate of rent mentioned therein is incorrect or unequal. As no provision is herein made that the pattas are to be cancelled on proof that the rate of rent has been generally raised, this shows that there was no contemplation at the time that the landlords would not be able to enhance the rent of the raiyats.

My Association is aware that in a subsequent regulation (Regulation IV of 1794) it was enacted that in case of dispute between the raiyats and their landlords regarding the rates of pattas it shall be determined in the Dewani adalat of the zillah in which the lands may be situated according to the rates established in the parganas for the lands of the same description and quality as those respecting which the dispute may arise and it was further enacted that no proprietors shall require raiyats whose pattas may require or become cancelled under the last-mentioned regulation to take out new pattas at higher rate than the established rate of the pargana for the lands of the same quality and description, but the raiyats shall be entitled to have the pattas renewed at the established rates. My Association contends that this regulation was not exactly framed in the spirit of the Permanent Settlement Regulation; it however does not bar a general enhancement

of rent in the whole pargana. Besides that it may be mentioned that there was no pargana rate properly so called. (Harington's Analysis, Vol. III, p. 421 quoting Shore's Minute.) Sir Barnes Peacock said, "the pargana rates were in all probability originally intended for the purpose of enabling the Government in assessing the revenue, to ascertain what the landowners were in fact collecting from the raiyats, not that the Government was bound in assessing the land to treat the rent actually collected as the true value. It was the interest of the zamindars to show that the rents they were collecting were very low and to make them up by abwabs and cesses. In practice the pargana rates were seldom found to exist."

Were these so-called customary rates varied or enhanced, or how were they regulated? The customary or pargana rates were of three kinds—(1) grain rents, being in original share of the produce not commuted into money and which generally continued to prevail in the province of Bihar. In this case as the value of the grain increased, if taken in kind, it fetched more money, if annually struck in money at the market rates, more money was received—there was no need of any special provision for enhancement. The rent, as it were, enhanced itself.

(2) and (3) money rents, more common in Bengal, i.e., where the grain rents were commuted into money in either of two ways which are distinguished in section 56(7) of 1793 as follows:—

(2) "Where it is the custom to vary the patta according to the article produced thereon" (on the land), that is, there were established rates not for each kind of land but for each kind of produce,—so much for bigha for rice, so much for wheat and so on. In this case the zamindar would benefit by the substitution of more valuable for less valuable articles of produce as contemplated by Lord Cornwallis.

(3) The system which it was hoped would ultimately prevail where the rates were fixed not on each kind of produce, but on each quality of land; thus there were fixed specific sum for a certain quantity of land leaving it at the option of the raiyats to cultivate whatever species of produce may appear to them likely to yield the largest profit. In this case it is evident that without some mode of enhancement the zamindar would benefit neither by the introduction of new product nor by the rise in value of the old product. As it was a new system which was introduced the zamindars would naturally engage with the raiyats at the highest rate prevalent for the most valuable kind of produce and in this way some enhancement would be effected.

The Regulation VIII of 1793 speaks of adjusted rents which appear to indicate a contractual rent and not a customary rent. In the Fifth Report we find the following observation:—

> "With respect to the cultivators or raiyats their rights and customs varied so much in different parts of the country and appeared to the Government to involve so much intricacies that the Regulation (VIII of 1793) only provides generally for engagements being entered into, and pattas or leases being granted by the zamindars, leaving the terms to be such as shall appear to have been customary, or as shall be particularly adjusted between the parties; and in this, it is probable that the intentions and expectations of the Government have been fulfilled as no new Regulation yet appears, altering or rescinding one alluded to. It is moreover to be expected that the parties, on experiencing the inconveniences, expense and delay, combined with the uncertainty attendant on decisions in the newly constituted Courts of Justice will come to a reasonable agreement between themselves; the zamindars, for the sake of retaining cultivator, by whose means alone his estate can be rendered productive; and the cultivator for the sake of gaining a subsistence on the spot where he has been accustomed to reside." (Fifth Report.) This report goes to show that it was contemplated at the time that the rent may be otherwise than customary and may be according to the contract between the parties which may be higher than the so-called pargana rate and that there may be an enhancement in consequence.

It may be mentioned that in the Midnapore district the old jamabandis show particular rate of rent for jal lands (paddy lands) and particular rate for kala lands (lands on which other crops than autumnal paddy is produced); and that the classification here is not according to the classification of Todar Mal but different system has been adopted altogether. These rates for different lands vary in different jamabandis and enhancement may be noticed in some of them. My Association thinks that enhancement must have been due to the fact that these were contractual rents and that no bar to contractual enhancement was provided or contemplated in the Regulation.

As regards dependant talukdars it has been expressly provided in the Regulation VIII of 1793, section 51, that the rents from such talukdars may be enhanced under certain circumstances and that in their case also customary and contractual rents were contemplated.

Q. 47. My Association does not think that the permanency and fixity of the rates of rent were contemplated in the case of any of the tenants mentioned in the question.

In section 52 of Regulation VIII of 1793 it has been provided that the zamindar or other actual proprietor of land may let the remaining lands of his zamindari or estate (i.e., the lands which were not let out to dependent talukdars) in whatever manner he may think proper under certain restrictions which have been mentioned in the following sections. The restrictions mentioned in the following sections have been discussed in answer to question 46 and it has been shown that no permanency or fixity of the rates of rent was contemplated. Section 56 of the said Regulation provides that where an established custom is alleged an adherence to that custom shall be preferred. Such established custom was always difficult to prove and this must have been known to the framers of the Regulations. Hence the contractual rate of rent was contemplated.

It may also be mentioned here that before the Permanent Settlement there were the raiyats at fixed rates and ordinary raiyats both coming under the designation, khudkasht. This has been referred to in the judgment of Sir Barnes Peacock in the Great Rent Case. It must have been apparent to the framers of the regulation that the zamindars must have an equitable right of enhancement of rent. Although no rule of enhancement was laid down by the regulations, it seemed hard that as the relative value of produce and money altered, as produce became relatively more valuable and money relatively less valuable, the zamindar should continue to receive, as representing his share of produce, a sum of money actually representing smaller purchasing power, a smaller quantity of grain and a smaller proportion of produce. If this fact was apparent to the framers of the regulation they must have contemplated that the zamindar may enhance the rent of raiyats in certain cases.

With regard to the establishment of new tenants on lands which were lying uncultivated at that time the rent must have been determined by contract and also by competition. In such cases the customary rent even if it existed must have been disregarded—it may not be in large number of cases—but that there were some such cases, there could be no doubt. (*See* section 5, Regulation XLIV of 1793.)

In the premable to Regulation XLIV of 1793 it has been stated "it is at the same time essential that the proprietors of land should have a discretionary power to fix the revenue payable by their dependent talukdars, and to grant leases or fix the rents of their lands for a term sufficient to induce their dependent talukdars, under-farmers and raiyats, to extend and improve the cultivation of their lands and that such engagement should be held inviolable in all cases." *See* also section 2, Regulation XVIII of 1812.

Q. 48. (*a*) My Association has already expressed its opinion that there is nothing in the terms of the Permanent Settlement Regulation

from which it can be inferred that the rents were meant to be fixed in perpetuity.

(*b*) My Association does not think that any other regulation supports the view that the rents were meant at the time of the Permanent Settlement to be fixed in perpetuity. If the reference is to Regulation IV of 1794, my Association has already dealt with that regulation in answer to question 46. It has been pointed out also that there was no pargana rate properly so-called and that it was not capable of clear proof. Therefore in Regulation V of 1812 it was declared that where the pargana rate was no longer clear the term "rates payable for land of a similar description in the places adjacent," should be substituted. If the adjacent lands were newly cultivated and paid higher contractual rate, the rent of the disputed land would also increase. Further it may be pointed out that the rents of those tenancies which existed at the Permanent Settlement were never meant to be fixed in perpetuity as would be apparent from the fact that Regulation VIII of 1793 contemplated cases wherein rates of rent would be assessed below the Nirikhbandi of the pargana that is the pargana rate (section 60); and in the other regulations also it was provided that the zamindars were entitled to realise rent according to the pargana rates. So where the rent was below the pargana rate it was capable of enhancement. It may be mentioned that in clause 7 of section 15 of Regulation VII of 1799, a lease-holder or other tenant as having a right of occupancy only so long as certain rent or a rent determinable on certain principle according to local rates or usages be paid without any right of property.

(*c*) By Act 12 of 1841 and Act I of 1845 (which repealed the former) a purchaser in a revenue sale acquired his estate free from all incumbrances which had been imposed on it after the time of the Permanent Settlement; and he is entitled after notice given under section 10 of Regulation 5 of 1812, to enhance at discretion, anything in the Regulations to the contrary notwithstanding, the rent of all undertenures in the said estate, and to eject all under-tenants with certain exceptions, amongst which are khudkasht kadeemee, but not simple khudkasht raiyats. It follows that these laws distinctly gave the purchaser the power to eject the khudkasht raiyat whose tenure was erected after the Permanent Settlement and if not ejected he was liable to be assessed at the discretion of the landlord.

Section 3 of Act X of 1859 provided that the raiyats who held land at fixed rates of rent which have not been changed from the time of the Permanent Settlement were entitled to receive pattas at those rates and by section 4 it was provided that the proof that the rent has not been changed for 20 years raised the presumption that the land had been held at that rent from the time of the

Permanent Settlement. This will be discussed later on. By section 6 of Act X of 1859 it was enacted that all raiyats were entitled to pattas at fair and equitable rates. And in the Great Rent Case it was found that a suit to enhance rent after notice was a proper mode of suing for enhancement of rent. On 8th June 1787, some regulations were passed for the conduct of the Collectors. These provide that the Collector is to try to ascertain the rules and rates of assessment upon the raiyats and to endeavour to fix upon some mode of regulating them upon general, fair and ascertained principles.

Lord Cornwallis in his Minute, dated 18th September 1789, says, "It is immaterial to Government what individual possesses a land, provided he cultivates it, protects the raiyat and pays the public revenue" and adds, "I understand the word "permanency" to extend to the jama only and the details of the settlement, for many regulations will certainly be hereafter necessary for the further security of the raiyats in particular." (Fifth Report, Vol. I, p. 592.)

Mr. Shore replied in another Minute of the same day and remarked that with respect to the relations between the zamindars and tenants the interference of the Government was absolutely necessary. "This interference," he said, "though so much modified is in fact an invasion of proprietory right and an assumption of the character of landlord which belongs to the zamindar; for it is equally a contradiction in term to say that the property in soil is vested in the zamindar and that we have a right to regulate the terms by which he is to let his lands to the raiyats, as it is to connect that avowal with discretionary and arbitrary claim. If the land is the zamindar's it is only partially his property whilst we prescribe the quantum which he is to collect or the mode by which the adjustment of it is to take place between the parties concerned." And again he said, "the idea of imposition of taxes by a landlord upon his tenant implies an inconsistency; and the prohibition in spirit is an encroachment upon the proprietary right, for it is saying to the landlord you shall not raise the rent of your estate."

It may be pointed out that the late Sadar Court so late as the year 1849, held "the connection between landlord and tenant in this country commences on the similar understanding when the under-tenant in Bengal whether holding by patta or as a tenant-at-will occupies land with the consent of the zamindar and the rent, however determinable is only a consequence of the arrangement." [Darpanarain *vs.* Sreemati S. D. A. (1849) 1888].

It is significant that in the draft resolution of the Decennial Settlement prepared by Sir John Shore it was written, "in every

mofussal cutchery the nirikhbandi or rates of land shall be publicly recorded and the zamindar is answerable for enforcing this regulation, under a penalty or fine for neglect, at the discretion of Government." This nirikhbandi was necessary according to him to fix the limit of demand by the zamindars. But as a matter of fact this provision was omitted from Decennial Regulation as *finally* passed, which is significant.

(*d*) My Association does not think that the wording of section 50 (*i*) and section 6 of the Bengal Tenancy Act lends colour to the view expressed in the question. Apart from the fact that the wording of one statute should not be interpreted with the aid of the wording of another statute, my Association is of opinion that the sections referred to interposed a bar which is for the first time enacted in Act X of 1859. Out of the tenancies which existed at the time of the Permanent Settlement there must have been many whose rents have been enhanced. It was only with regard to those tenancies whose rents have remained unaltered that these sections will apply the mere fact that the rents of the tenancies remained unaltered for a long time would not go to show that the original intention of the Government or of the landlord and the tenants was that the rent of the tenancy was not enhancible. That may arise from a combination of circumstances. Sir William Hunter in his introduction to the Bengal Manuscript Records quotes the statement of late Mr. Buckland, a Bengal administrator, whose authority in such question is beyond dispute, "It may not be generally known that the Regulation of 1799 was enacted in order to save the perpetual settlement, the existence of which was then imperilled by the excessive independence which the raiyats enjoyed. For although it is now the custom to say that the rights of the raiyats are not properly protected in the perpetual settlement, it turned out at the time that they could take such good care of their rights that the zamindars could not collect their rents from them until the Government came to the rescue of the zamindars." It appears therefore that the zamindars were so busy in trying to collect their own rent that they could not think of enhancing the rent of the raiyats at least in some cases. It has also been held by learned Judges of the Calcutta High Court that the mere fact that the rents have not been changed for a long time by itself is not sufficient to show that the original contract was for payment of rent by the tenant at a fixed rent forever (Jagabandhu *vs.* Magnamayee, 22 C. W.N. 89—24 C. L. J. 363). The fact that the landlord did not for a long period make any attempt to enhance the rents for the holding or turned them khas was held to be sufficiently explained by the fact that the yield of the land to the tenant was until recently quite poor (Manmathanath Mitra *vs.* Anath Bandhu Pal, 23 C. W.N. 201).

An indulgent zamindar is likely not to enhance the rent of his tenants for a long time. Similarly an indifferent zamindar or a negligent zamindar may also omit to take steps to enhance the rents of his raiyats.

The reference to the word "Permanent Settlement" in sections 50 and 6 of the Bengal Tenancy Act refers only to a point of time so far back that if the tenant had been paying rent unaltered since that time it was necessary to give him a further security by providing that the rent could not be increased. That the rents of tenancies which existed at the time of Permanent Settlement were not unalterable can be ascertained from a variety of circumstances some of which have been mentioned before. Another ground may be mentioned here, Section 9 of Regulation VII of 1799 provides that a tenant shall not be bound to pay an enhanced rate to a purchaser at a revenue sale without written engagement or notice although liable to enhancement. The rates to which the rents may be enhanced are the pargana rates; or if none the rates payable for land of a similar description in the places adjacent; or if the leases of a whole village or local division are liable to be cancelled, the new rates shall not be higher than the highest rate paid during the three previous years (sections 7 and 8). This shows that the rents which existed at the time of Permanent Settlement were not meant to be fixed. Hence the reference to the Permanent Settlement in the Bengal Tenancy Act, sections 50 and 6, is only to a point of time and does not only imply that the rent which existed at the time of the Permanent Settlement was meant to be fixed. It may be asked if the rents of tenancies existing at the time of Permanent Settlement were intended to be fixed, why was it that in section 5 of Regulation XLIV of 1793 it was provided that when a whole or portion of a zamindari is sold for arrears of revenue all engagements by the defaulting proprietors and all leases to under-farmers and pattas to raiyats shall stand cancelled from the day of the sale and the new proprietor shall be entitled to demand the pargana rates from all tenants?

(*e*) This does not appear to be any ground at all. Regulation I of 1793 refers to the former system of increasing the revenue from time to time and states that with a view to such increase, frequent investigations as to the produce were made, and the proprietors were excluded and the lands let in farm or offices of Government appointed to collect the assessment from the raiyat. These usages and measures being considered detrimental to the prosperity of the country, the assesssment has been made fixed and irrevocable, and will not be liable to alteration by future administrations. The whole intention of the Regulation was to declare that the jama assessed would be fixed forever. If there was intention that the

zamindars would not be able to enhance the rent of the raiyats at all there was nothing to prevent the Legislature from stating so in plain terms. Further, my Association has already shown that there was scope left for enhancement and that rents of some tenancies, if not all, were below the pargana rate. The Government under circumstances which need not be repeated here resolved to make a sacrifice (if that was at all a sacrifice) and parted with all its interest in favour of the zamindars reserving to itself only the right to receive an unalterable jama. Therefore it cannot be said that the State could not have allowed the zamindars to get entire benefit of any enhancement of any raiyati rent. It has been previously shown that the State failed to realise adequate rents and had no other option than to make the Settlement which it did with the zamindars preferring to have one tenant rather than multitude of tenants from whom they had neither the machinery nor the ability to collect rent.

Q. 49. My Association does not think that any case has been made out for reduction of rent. It has been pointed out before that according to the calculation of Sir William Hunter the proportion of rent to the gross produce of an acre of land is 12 per cent. in this district and that the Bengal Government report forming an enclosure to Lord Curzon's Land Resolution of 1902 shows that only 11 per cent. of gross produce was paid as rent. The maximum rent which late Mr. R. C. Dutt found in some districts of Bengal was about one-sixth of the gross produce. And the statistics obtained by the Land Revenue Commission shows that the proportion of rent to the gross produce is 7 per cent. So there is no case made out for reduction of rent.

There is practically no material available for determining what the rates of rent were at the time of the Permanent Settlement. Mr. Colebrooke on whose suggestion Regulation V of 1812 appears chiefly to have been framed, stated, "There is actually no sufficient evidence of the rates and usages of parganas which can now be appealed to for the decision of questions between landholders and raiyat." It is impossible at the present day to find out any link or connection between the present-day tenants and the tenants that existed at the time of the Permanent Settlement.

Th grievances which the tenants have at present are entirely due to the economic depression and to the fact that there is no proper market for their produce. The result has been that there has been a great depreciation of the value of crops produced by the tenants and all their requirements are not being met from the produce of their lands. As the price of the agricultural produce has gone down greatly, the tenants have to pay a larger share of the produce as rent than when the price of produce was high. This grievance will

be set right when the price of the agricultural produce will improve. Steps should be taken for proper marketing of the produce, as that would undoubtedly lead to better price being obtained for agricultural produce.

Q. 50. My Association thinks that it was not a mistake of Government to provide in all tenancy legislation since 1859 for enhancement on the ground of rise of prices of staple food crops.

In the Great Rent Case Mr. Justice Trevor said, "As the rent now paid represents the customary rent it represents, on the view which I had adopted, that proportion of the gross produce calculated in money to which the zamindars was entitled; and as the increase in the produce has risen from circumstances independent both of the zamindar and the raiyat the zamindar is entitled to a rise in his rent proportionate to the increased value of his share of the produce. The formula, then, by which this increase should be determined seems to me the following: the value of the gross produce before the alleged alteration in the same is to the rent which the land then bore as the altered value of the produce is to the rent which should be assessed on it, or, in another form, the old rent must bear to the new rent the same proportion as the former value of the produce of the soil bears to its present value."

Mr. Justice Steer considered three propositions for enhancement of rent, the last being that the rent should be adjusted presuming that the old rent bore a just proportion to the old produce, to give to the zamindar the same proportion as rent out of the present produce. After a consideration of all the propositions he came to the conclusion that the third proposition, namely, the one above stated is certainly more simple and apparently equitable.

According to Marshall a rise in the value of the produce causes a double rise in the value of the producer's surplus. So it is equitable that the landlord should get a share of this increase.

According to J. S. Mill, "Rent does not really form any part of the expenses of productions or of the advances of capitalists—whoever does pay rent, gets back its full value in extra advantages and the rent which it pays does not place him in a worse position than, but only in the same portion as, his fellow producer who pays no rent but whose instrument is one of inferior efficiency. * * * Rent which any land will yield, is the excess of its produce, beyond what would be returned to the same capital if employed in the worst land in cultivation."

Q. 51. It has been previously shown in answer to question 56 and other questions that it was not the intention of framers of the Permanent Settlement that all future settlements of waste lands should be made at the pargana rates.

It was also very difficult to find out what the pargana rates were even at that time. Sir John Shore in his Minute wrote as follows:—

"Toran Mull is supposed to have fixed the rent payable by the raiyats, but by what rules he settled it, we are not certainly informed. The Asal Jama established by him does not now anywhere exist. At present, no uniformity whatever is observed in the demands upon the raiyats. The rates not only vary in the different Collectorships but in the parganas composing them, in the villages, and in the lands of the same village; and the total exacted far exceeds the rates of Toran Mull. Where these variations take place by any established rules founded upon the quality of soil, its produce, and the usage to which the land is applied, however perplexing they may be to the Collector, or other Officer of the Government, I do not deem them of material inconvenience to the raiyats, who from usage understand them, and can tell when they are exposed to exactions. But the standard is often so indeterminate, that the raiyats neither know what they have to pay, not can the officers of Government without most difficult investigation, ascertain whether they have been imposed or not." (Harington's Analysis, Vol. III, p. 421.)

It has already been pointed out that Mr. Colebrooke even before 1812 said that there was no sufficient evidence then existing of the rates and usages of the parganas. So it is impossible at the present day more than a century and a quarter after to revert back to the alleged pargana rates no semblance of which exists either at the Sherista of the landlords or in the archives of the Government.

Q. 52. According to John Stuart Mill, "Custom is the rule in a rude state of society, whereas competition has beome the governing principle of contracts at a comparatively modern period." The relationship between landlords and tenants in Bengal at present is based entirely on contract though the rent originally paid might or might not have been customary. If we go back to custom, it would revolutionise the modern system of relationship between landlord and tenants.

My Association therefore advocates that economic rent should be deemed to be the fair and equitable rent if a new adjustment is made now. The difference between the produce of land just paying the cost of cultivation and land which owing to its situation or superior fertility yields produce of much higher value should be the maximum of such fair and equitable rent. In order to ascertain what would be the actual rent, the element of competition should be introduced, *i.e.*, my Association advocates Nos. (1) and (6) combined, out of the system suggested in the question. This system of rent was originally advocated by Ricardo and though controverted by

Carey has still held its grounds. My Association does not think it necessary to repeat all the arguments in favour of such rent.

As regards the system No. (2) suggested after paying all expenses of cultivation including the food of the cultivator and his family it is not likely that anything would remain to be paid as rent. It will always be difficult to find out what would be the legitimate expenses of a cultivator and his family. The Provincial Banking Enquiry Committee has pointed out that the standard of living of Bengal peasants has been steadily on the rise. They now wear more numerous and more expensive articles of attire than their grandparents did half a century ago. Luxuries have increased to a large extent by their introduction into villages by the improved means of communication. Cigarettes have to a large extent replaced the chief indigenous tobacco which used to be smoked before, (page 29 of the Report). My Association does not grudge them a higher standard of living but at the same time it must also be considered that it will be difficult to ascertain what their legitimate expenses would be and therefore what should be the margin left for rent. It may be presumed that when a tenant enters into contract with his landlord for payment of rent the amount which he stipulates to pay as rent is left to him after defraying the legitimate expenses for the food of himself and his family. So this point need not enter into consideration for the amount of rent.

(3) Besides the disadvantage pointed out in this system it should always be remembered that it is not always possible to ascertain the amount of produce. In large zamindaris the cost of collection would amount to a huge figure if all tenants are to pay a definite share of produce as rent. As the time of harvest or gathering of crops is almost the same everywhere, so far as regards winter paddy is concerned, the zamindar will have to employ a number of persons to be present at the gathering of each tenant's crops, for the produce cannot be ascertained unless the landlord's man and the tenants both calculate the produce at the time of harvesting or gathering of crops. This will also lead to unnecessary harassments of the tenants because they will not be able to remove the paddy until the landlord's man comes and ascertains the produce in his presence. Another great difficulty would be if the tenant does not cultivate the land and allow it to lie fallow there would be no produce and the landlord would not be able to get any share. This will be giving a premium to indolence and laziness, the land will also be deteriorated in consequence. If the tenant does not cultivate the land properly the produce would be less than usual; this course will be adopted by the tenants when there would be any dispute between the landlords and themselves. Hence in bhag system, in our part of the country the cultivation is done under the eye of the landlords.

(4) Market value of the land should not be the sole criterion of rent. Market value often fluctuates and fluctuating rent would be harassing to both the landlords and the tenants. Market value is always difficult to ascertain and if every year market value has to be ascertained for the purpose of fixing up rent this will lead to unnecessary expenses both of the landlords and the tenants so very likely they will not be able to agree as between themselves regarding this market value and many Revenue Officers will have to be appointed for this purpose. Besides this, if by the tenants' act there is deterioraton of soil the market value will be less and the landlord will be entitled to less rent not through any fault of his own but entirely through the fault of his tenants. Besides this, if the tenant improves the land after incurring great expenditure upon it the land will rise in value and the landlord will be entitled to a higher rent though he himself did not contribute any amount towards its improvement. This will really act as a check on improvement made by tenants at their own expense. In the Bengal Non-Agricultural Land Assessment Act, market value of the land is not the sole consideration in determining fair and equitable rent. The market value of the land is fixed on the profits derivable from the land after deducting rents, etc. So rent is not one of the elements in determining the value of the land and should not be calculated on a percentage of the market value.

If rent is fixed on a percentage of the market value such value will be greatly depreciated, as purchasers will have to pay a higher rent if a high value is put in the deed of transfer. According to economists, the value of a thing is determined by the utility of their land increment, their final utility as Jevons calls it. Rent does not enter into it in the case of lands. Hence it would not be correct to fix a percentage of the market value and call it rent.

(5) My Association has already pointed out that as society progresses, rent should be regulated by competition and not by custom. We therefore should not go back to custom again and leave aside competition. Customary rents are always very difficult to prove, it may be safely said that there is no customary rate at present. If we scan the pages of record-of-rights we do not find any indication of any customary rate of rent and no trace of it is to be found either in the present-day papers of the landlords or in the record room of the Government or the rent receipts of the tenants. Hence if we revert to it again it would be impossible to prove what the customary rate is.

The opinion above expressed should not however be taken to mean that the present rents should be overhauled and a new system enforced. This present rent is quite fair and equitable, and should

the State ever realise rents direct from tenants the above method should be adopted.

Q. 53. The present rents paid by the cultivators are based on the principle formulated in Act X of 1859 and Act VIII of 1885. These Acts speak of customary rents, but rents based on contract are not customary rents. The contractual rents are fixed by guess according to rents paid by similar lands in the vicinity, but sometimes rents based on contract are higher and sometimes lower than such rents because competition enters to some extent in cases where rent has to be fixed by contract. Consideration of the productivity of the land also enters sometimes in such cases. But my Association thinks that in the majority of cases the rents paid by the cultivators may be described as lump rents. It is true that in practice the rates differ greatly for land of similar value in almost every village as will appear from the record-of-rights framed for that village.

Q. 54. It is not our experience that the poorer and weaker tenants pay higher rents in many estates. There may be some poor and weak tenants who pay higher rents in proportion but this is not because they are poor and weak but for many other considerations which it is impossible to generalise.

Besides the factors suggested, another factor is difference in situation. Some land may be quite close to the market, while other land is situated at a great distance from it. The man who rents the one will have to spend a great deal more labour, or to pay a great deal more for labour, in order to get his produce to market than the man who rents the other. Those lands will not fetch the same rent. This is the substance of Ricardo's theory and my Association thinks that this theory holds good in our district also.

Q. 55. If all zamindars and middlemen between the State and the raiyat are removed, it would be equitable to readjust rent on uniform basis throughout all parts of the province. The principle to be adopted has been sufficiently indicated above and need not be repeated.

In order to give effect to the principle enunciated above it would be necessary to organise a thorough investigation into the nature, situation and productivity of every land in the province and to prepare a new record-of-rights.

Q. 56. My Association does not advocate that a definite share of the produce should be paid by all cultivators. If any such basis is adopted, the minimum should be one-sixth share of the produce. In England it is one-third of the share of the produce.

Q. 57. My Association does not see why the present-day landlords should be removed if another set of persons with permanent rentals is to be substituted in their place. Some years after when these persons by their hard labour will be able to earn more than was contemplated, the cry again will be raised that the new Settlement in perpetuity is to be cancelled and another set of persons substituted in their stead. Is then violation of pledges to go on forever?

There can be no doubt as has been pointed out before that tenants in perpetuity are more interested in improving the land than a tenant for a fixed term.

If the rent is to be made alterable it should not be made to vary according to the needs of the State from time to time. The so-called needs of the State are so elastic that the phrase will always be used to start an engine of oppression. We have had sufficient experience of such "needs of the State" in United Provinces, Bombay and Madras during the early years of the British Rule.

If rents are to be revised the minimum period for revision will be 40 years.

Q. 58. My Association does not think that there would be any advantage in the substitution of income-tax on profits from agriculture in place of rent. It is an economic principle advocated by Messrs. Bentham and Mill that an income should not be taxed if it was not more than sufficient to provide the owner with the mere necessaries of life. Mill maintained that the legislature ought in the first instance to decide what is the maximum income which should be allowed to escape the income-tax. Thus income below a certain figure must be exempted from tax and the result would be that a large proportion of land in Bengal would not be liable to taxation and this fact would tend to increase the proportion of such land in course of years. Such tax being paid out of profits is also likely to raise the price of agricultural produce and would be a discouragement to prudence. When the tax raises the price of the agricultural produce it will be paid out of the pocket of the consumer, and labourers also will thus have to pay a share of it. Besides that, if the tax exceeds a rack-rent in amount, it tends to throw the soil out of cultivation, for it is evident that the importation of agricutural produce will be encouraged if the price of such produce is artificially raised in the home market by an excessive land tax and if an increased amount of produce is imported a diminished quantity of produce will be grown in the country itself. Further, it is also difficult to ascertain the actual profit derived from agriculture and some tenants may be under-assessed and some over-assessed. A special department of Government with a huge

staff may be necessary to ascertain the income derived from the agricultural produce as this must necessarily differ in different years. If in a certain year there is a failure of crops owing to droughts or other causes, no income-tax can be levied in that year. Thus the income of Government derived from such income-tax will necessarily fluctuate greatly in different years and no Government can go on with such fluctuating income.

Q. 59. Fair and equitable rent was defined in the reports of the Rent Law Commission, Vol. I, page 24, paragraph 46 to be "such a share as shall leave enough to the cultivator of the soil to enable him to carry on the cultivation, to live in reasonable comfort and to participate to a reasonable extent in the progressive and improving prosperity of his native land." This definition or description was not embodied in the Act probably owing to many difficulties incident to such description. It was embodied in the Act that "all rents payable by tenants shall be presumed to be fair and equitable until the contrary is proved." Rules were laid down in the Act for enhancing the rent. These rules are embodied in sections 6 and 7 in the case of tenure and sections 30 to 36 in the case of raiyats. The principle adopted in the case of raiyats is that the prevailing rate shall be equal for lands of similar descriptions and with similar advantages in the same or neighbouring villages, that the raiyats will have to pay enhanced rent in the case of rise of average local prices of staple food crops or in case the productive power of land is increased by fluvial action or when improvement is effected in the productive power of the land at the expense of the landlord. With regard to the first ground the policy of the law was to reduce all rents to the same level in case of lands of similar character with similar advantages and is unexceptionable. As regards the second and the third grounds, as the raiyat will enjoy more profits through no exertion of his own it is just and equitable that he will give a share of it to the landlord. With regard to the fourth ground also no exception can be taken. Therefore my Association thinks that neither the principle nor the procedure adopted by the framers of the Bengal Tenancy Act can be held as defective. But there is one fact which should have been taken into consideration, namely, whether the existing rates are fair and equitable, *i.e.*, whether it satisfied the requirements laid down by the Rent Law Commissioners. A detailed investigation would have been necessary which probably was thought impracticable at the time.

Q. 60. In case of fluvial action the landlord may have done nothing to bring it about but the tenant has also done nothing to improve his land. So also it is equitable that the landlord in case of permanently settled estates and the State in case of khas mahals would get a share of the increased profits. This is incident to the

ownership of land. If in the case of deterioration of land on account of deposit of sand by fluvial action the tenants can get abatement from rent, there is no reason why he should not give a share of his increased profits owing to the same cause.

Q. 61. My Association approves of the principle that the tenants should pay enhancement of rent if there is rise in prices. This question was exhaustively dealt with by all the judges in the Great Rent Case and they unanimously came to the conclusion that the tenants should pay enhanced rent in such cases. It is not necessary to reiterate the arguments advanced therein.

Q. 62. My Association thinks that even in such cases the tenants should pay enhanced rent though in a smaller proportion than otherwise. It may be mentioned that in every case the tenants will bring forth the plea that they require the whole crops for their own consumption and it will be always difficult to ascertain whether this is true or not. Even in the case contemplated, tenants have to pay some rents. The rise in prices was not brought about by any exertion on the part of the tenants. Besides this when there is rise in prices the tenants have to pay a decreased share of the produce to the landlord though the money value remains the same. The tenants ought to make good this loss on the part of the landlord. Further if there is no enhancement in the case of tenants who require their whole crops for consumption, when population will increase, and there will be either subdivision of holding or more mouths to feed on the usufruct of the same holding, there will be no enhancement. Thus in course of time all enhancement will have to be stopped. Again, there will be a tendency to transfer a portion of the holding in the *benami* of another so that it may appear that the portion of the holding that remains after transfer was not sufficient to support his family.

Q. 63. It has already been stated that enhancement of rent on the ground of prevailing rate cannot be taken exception to on any ground. It may be mentioned here that my Association does not see why there should be reduction of rent on the ground of prevailing rates.

The apprehension mentioned in the question seems to be groundless. So far as my Association is aware lands have never been improved at the raiyat's own expense, and in spite of positive provisions in the Bengal Tenancy Act, no evidence regarding improvement has been applied to be recorded by any tenant up till this day.

Salami does not represent advance rent. It represents the value of the interest granted to the tenants. If a heavy salami is paid by the tenant for reducing the rent of a holding at the time of taking lease, that reduced rent cannot be considered to be the prevailing rate. And rent should not be reduced on the basis of a special case made according to a special agreement between the parties.

Q. 64. My Association does not think that there should be a provision for reducing high contractual rents or for limiting rents for new settlements. Where the contractual rent is high, the tenants would be unable to pay it after a few years and would surrender the holding, and no other tenants can be obtained who would consent to pay such rent. This is our frequent experience. It is always safer to leave everything to natural economic laws than to limit or handicap it by litigation. If a limit was put by legislation, it may prove unjust to one or other of the parties, the limit proposed may be wholesome at one time and injurious at another time. Reduction may be proposed up to a certain point and this must be after close investigation extending over many years after incurring considerable expense. But at the close of the investigation or after some years, the reduction adopted may again prove to be injurious. To fix, therefore, reduction of rent by legislation can never be thought of. Reduction of rent without comparison to the landlord would be unjust and expropriation.

If we limit rent of new settlements by legislation, that would also operate as hardship not only on landlords but also on many tenants. The best lands would not be paying rent proportionately to the worst lands and many worst lands would be thrown out of cultivation or would be paying no rent at all. If the 2nd, 3rd or 4th class lands pay economic rents, the 1st class lands owing to the limit proposed may pay rent equal to the 2nd class lands. This will operate as hardship on the tenants who cultivate 2nd, 3rd and 4th class lands. The landlords also will be unjustly deprived of a portion of the rent. Rents tend to increase with the increase of population. It is not just and equitable to deprive the landlords of a portion of their legitimate dues. If a limit is put on rents for new settlements, the limit will be regarding 1st class lands, as there would be no criterion as to what would be the limit of other classes of lands, rents settled will operate as hardship on some while others may escape lightly. Another effect of such limitation would be that landlords will levy heavy salamis for new settlements either openly or clandestinely.

Q. 65. Chief defects regarding settlement of rent in—

(*a*) Temporarily settled and Government estates—

(*i*) There should be express provision, when a table of rates is being prepared by a Revenue Officer, that person interested should be given notice and permitted to adduce evidence regarding every entry to be made in a table of rates. The tables of rates should be prepared on consideration of such evidence and other circumstances necessary to be enquired into for preparing a table of rates. If necessary the opinion of an agricultural expert may be taken regarding the nature of the soil. Evidence should also be taken regarding the cost of production incurred by the tenant in his holding and also the yield thereof.

(*ii*) In section 104B power has been given to the Revenue Officer to deal with objections but no appeal has been provided therefrom. This should be provided. The rent settled should not have an irrebuttable presumption.

(*iii*) All objections which are to be preferred under sections 104A to 104F should be judicially disposed of after taking evidence and not hastily put an end to.

(*b*) Permanently settled estates—

(*i*) Before disposing of section 105 cases it may be useful to prepare a table of rates for a whole district so that settlement of rent may proceed on a uniform basis. Such table of rates will be taken into consideration at the time of disposing of applications under section 105.

(*ii*) The presumption attaching to the settlement record-of-rights should be relaxed and where the settlement records of rights are prepared upon a basis, the basis should be invariably stated, so that the Civil Court may have an opportunity to judge as to whether the Settlement Officer is right in making the entry. All documents on which the entry is based including dakhilas and landlord's paper should be specified.

(*iii*) At the time of khanapuri and attestation and even in section 103 cases disputes are very hastily disposed of and proper evidence is neither recorded nor considered. Appeal should be provided in section 103A cases. Khanapuri work is done by low-paid Amins who are amenable to corruption, and their works are not sufficiently checked at the time of attestation or in subsequent stages owing to haste in the disposal of cases.

Q. 66. My Association does not know of any case where a proceeding under section 105 resulted in unfair enhancement of rent. On the contrary all Revenue Officers who were deputed in this district were favourably inclined towards the tenants. Hence in all cases without exception they took into consideration the so-called neglect on the part of the landlord and granted enhancement to a small extent. There was no fault of the Settlement Court or of a Special Judge.

Q. 67. This question must be answered in the affirmative. Wherever any revisional settlement is made the Revenue Officers vie with each other in enhancing the rents of the raiyats, their impression probably is that they would be promoted if they can show increase of revenue. There is in fact no limit to their enhancement.

In Madras assessments were revised at each recurring settlement on the principle that one-half of the net produce of the soil was due to the Government as revenue and this net produce was ascertained by deducting from the gross produce the estimated costs of cultivation. The cost of cultivation was not taken at its true figure. Mr. Meyer

says "The tendency to make the cultivation expenses roughly proportionate to the value of the land is one of the weak points in the Settlement Department." Dr. MacLean says in p. 109 of the Manual of the Administration of Madras, "The cost of cattle, implements, seeds, the wages of permanent servants, and the cost of transplanting are taken as constant, whatever the soil. The Settlement Department endeavoured "to make the cultivation expenses roughly proportionate to the value of the land" and this rendered the estimates of the nett produce of the soil wholly unfair and untrustworthy. (R. C. Dutt's Second Letter to Lord Curzon, dated 20th February 1900.)

In Bombay the first settlement commenced in 1836 and showed an increase of land revenue by 32 per cent. exclusive of Poona, etc. The second settlement began in 1866 and showed an increase of 30 per cent. The third regular settlement from 1896 also showed a similar increase. There was no check on such enhancement. (Mr. Dutt's Third Letter to Lord Curzon, dated 6th April 1900.)

It is not necessary to multiply instances. The primary object was simply to enhance revenue, as will appear from various despatches and letters above quoted.

Q. 68. My Association does not know of any estate where the enhancement has been unfair to the tenants.

Q. 69. In the opinion of my Association it has been a mistake on the part of the Government to go on with revisional settlement during a period of economic distress. The result has been that the rents of the raiyats have been enhanced at a period when no enhancement should have been made. This shows the tendency of every revisional settlement to enhance the revenue. Huge expenses have been incurred at a time of acute economic distress and these expenses are to be paid by the tenants. These settlement operations entailed much loss and hardship on the tenants and they have not been able to pay proper attention to the works of the settlement officers for the purpose of safeguarding their interests. Their rents have been increased at a time when the prices of agricultural produce have gone down to a considerable extent. The result is that the share of produce now payable by the tenants is about three or four times the share which used to be formerly paid by them, as the prices of produce have gone down in that proportion. So a further enhancement of money rents has resulted in the liability of tenants to pay a greater share of the produce. Hence the grievances of the tenants are quite legitimate. The tenants in Contai khas mahals have therefore raised their voice in protest.

Q. 70. My Association has no experience regarding khas mahals of different districts.

Q. 71. It is not a fact that in permanently settled areas remissions of rent are not ordinarily given. In those estates where crops are destroyed by drought or inundation many landlords give remissions of rents to tenants. These remissions are given in many cases out of grace and in some cases owing to the fact that there is a custom of granting such remissions. Even when there is such custom of granting such remissions the landlords do not get any remission of revenue. Even where no remission is granted the landlords of permanently settled areas do not often collect rents from tenants in years of distress and give the tenants ample facilities for payment of rents according to convenience.

Test works are opened when famine is declared in certain areas. Famine is generally not declared except where there is extreme distress, because officers of Government are afraid that the income of the Government will be reduced if remissions are granted and test works are opened. Remissions of rent in khas mahal areas are also not given on a similar apprehension.

If the zamindars are given greater latitude by remissions they will be able to grant more remissions to the tenants. It is therefore necessary to relax the rules which prevail at present.

When crops are totally or partially destroyed in a certain area, the Collector should be vested with powers to allow suspension of revenue to the zamindars so long as the distress continues and either to remit the revenue altogether or arrange for easy payments thereof after the distress is over, according as the distress is severe or not. If the revenue is remitted altogether the zamindar should not be allowed to realise rent from his tenants for the period for which the revenue is remitted. If the revenue is suspended for a time and realised by easy payments afterwards, the zamindars may be compelled to do a similar thing towards their tenants. It is not necessary for a distress to be so widespread as to open test works in the area. Much will depend upon the mentality of the Collector.

Q. 72. *See* the Statement VI of the Statistical Abstracts compiled in the office of the Land Revenue Commission.

Q. 73. There is no conclusive evidence that the productivity of the soil in Bengal is generally on the decrease. The productivity of the soil depends on more facts than one, and unless these are scientifically eliminated one by one no positive conclusion can be drawn that the productivity of the soil is generally on the decrease. The decline in the quantity of produce may be due to defective manuring, defective seeds and want of proper irrigation. The capacity of peasants also seems to have decreased owing to the prevalence of Malaria which saps their vitality, soils are not properly ploughed, turned up and mixed with

manure and the same amount of labour cannot be bestowed now as in former days. A peasant in plenty does not work as a peasant in constant distress or starvation.

In our district the Government have not taken any steps to improve the fertility of the soil or distribute manures. The Government have not taken any appreciable steps to distribute improved seeds. No publication has been made or sufficient propaganda work undertaken for the purpose.

Q. 74. No steps worth mentioning have been taken by the Government to improve the lands of the agriculturists in this district, takavi loans are granted to the agriculturists only on very rare occasions and are speedily realised.

The wording in section 76 of the Bengal Tenancy Act has been borrowed from the Land Improvement Loans Act. Neither section 76 nor the following sections of the Bengal Tenancy Act are availed of by the landlords or tenants of this district.

A scheme was prepared by late lamented Mr. Peddie for washing of certain villages by red water from the irrigation canal, for improving the land and sanitation of the said villages by driving out Malaria (presumably under the Bengal Agricultural and Sanitary Improvement Act of 1920). But the scheme has not increased the productivity of the soil and had no appreciable effect on the prevalence of Malaria.

No action worth mentioning has been taken in this district under the Bengal Rural Development Act of 1935.

The reasons why the provisions of these Acts have not been extensively taken advantage of are—

(*i*) The tenants are too poor to pay any additional imposition. The landlords are also unable to pay any additional levy.

(*ii*) The tenants and the landlords are not sufficiently aware of the provisions of the Act. There has not been sufficient publicity.

(*iii*) The tenants view with suspicion any new scheme however beneficial, they think that such schemes are prepared only to wring money out of them. Hence propaganda work is necessary.

(*iv*) The work referred to in the above Acts is mainly concerned with irrigation facilities. Provisions for better manuring or distributing improved seeds do not properly come within the purview of the said Acts. These should be done gratis at least to gain the confidence of the tenants.

Q. 75. My Association has no knowledge on this point. Nothing was done in the Midnapore khas mahals.

Q. 76. Salami is realised in khas mahals. So far as my Association is aware, no portion of it is spent in improving the agricultural conditions of the lands.

Q. 77. In the opinion of my Association the land system of Bengal is not responsible for the present uneconomic condition of the raiyats, but the general policy of the Government is, and it is necessary to speak in detail what my Association means.

(1) The policy of Government killed the Indian manufacturer. The East India Company became the administrators of Bengal in 1765. Three years later they issued an order that the manufacture of silk fabrics should be discouraged in Bengal, that the people should produce raw silk in India to be woven in England, that the Indian silk-winders should be made to work in the Company's factories and prohibited from working outside under severe penalties by the authority of Government. The effect of this mandate according to the Select Committee of the House of Commons whose report was submitted in 1783 was to change the whole face of that industrious country in order to render it a field for the produce of crude materials subservient to the manufacturers of Great Britain. That there were various industries in a flourishing state of Bengal before the advent of British occupation cannot be gainsaid. Travellers like Bernier have amply testified to this. Contemporaneous literature also speaks to this. In 1813 when the East India Company's charter was renewed, an enquiry was made and the evidence of eminent witnesses like Warren Hastings of Bengal, Thomas Munro of Madras and Sir John Malsoem of Bombay was taken. They were asked by the House of Commons, not how Indian manufacture could be encouraged but how they should be discouraged to make room for the British manufactures. A new duty was thereafter imposed which killed the Indian manufacture. Henry St. George Tucker himself a Director of the East India Company wrote in 1823 "India is thus reduced from the state of a manufacturing to that of an agricultural country." The prohibitive duties were abolished after they had done their fatal work.

These manufactures must again be revived by protective duties and if necessary, even by bounties. *See* the papers on Indian Manufacture written by Mr. R. C. Dutta on December 20, 1901. *See* also Mill's History of India, Wilson's continuation Book I, Chapter VIII—note.

(2) About the middle of the 19th century railways were introduced in India. Railways are beneficial everywhere and they shorten distances and make journeys cheaper, quicker and easier. In India unfortunately, railways had been constructed by the Government out of the public revenues, or by private companies under guarantee of profit out of the public revenue, and the economic effect of this has not been beneficial. It has been a financial loss to Indians. After deducting all earnings the Government paid a huge amount of the revenues of

India to cover the loss. On the other hand irrigation works which were needed by the people for the protection of their crops were neglected. Less than one-tenth of the amount spent on railways have been spent on irrigation and less than one-tenth of the area of cultivated lands in India is protected by irrigation works.

(3) My Association has already pointed out the annual financial drain from India and from the time of East India Company. A sum representing the food of twenty-five millions of people of India was annually remitted to England without a direct return. Was it possible that under such financial arrangement India could be other than impoverished and famine-stricken? Lord Salisbury who was Secretary of State for India (afterwards Prime Minister of England) wrote in 1876 "so far as it is possible to change the Indian system, it is desirable that the cultivator should pay a smaller proportion of the whole national charge. It is not in itself a thrifty policy to draw the mass of revenue from the rural districts where capital is scarce. The injury is exaggerated in the case of India, where so much of the revenue is extorted without a direct equivalent. As India must be bled, the lancet should be directed to the part where the blood is congested, or at least sufficient, not to those which are already feeble from the want of it." This process of bleeding has left the country poor and the condition of peasants uneconomic.

(4) Another cause for the distressed condition of the raiyats is the appreciation in the value of the rupee. In 1871 one rupee was worth 1*s*. 10¾*d*. The rate began to fall materially in 1878 or 1879 and when the mints were closed in 1892-93 it had gone down to about 1*s*. 2½*d*. The India Government and some of the Provincial Governments got a natural increase in their revenue in consequence of the fall. The prices in rupee rose all round, the prices of good grains rose, profits as estimated by the rupee were increased. Between 1871-73 there was a considerable rise in the price of rice. The rise in price was accompanied by an increase in wages. Then the value of the rupee was fixed at 1*s*. 4*d*. and now not it is 1*s*. 6*d*. When there was rise in prices due to depreciation of rupee, the Bengal agriculturists greatly benefited by it and the Government derived advantage from the increased prosperity of the cultivators.

There is another object to this appreciation of rupee. The millions of agriculturists and labourers in India are indebted to moneylenders and mahajans and the debt is, in many cases, reckoned in rupees and not in grains. To artificially enhance the value of the rupee or to fix the value at the rate to which it has been already artificially raised, is to increase the indebtedness of the cultivators and labourers of India to moneylenders and mahajans. The measure serves to add to the profits of the prosperous class who feed on the distresses of the poor, and to add to the weight of the millstone which the poor and indebted

classes carry round their necks. When the agriculturist is indebted to the extent of Rs. 100 to the moneylender, the moneylender will claim Rs. 100 although the money now represents a larger quantity of rice or wheat than before. The cultivator, by the sale of the produce of his field, whether it is rice or wheat, will get less in the number of rupees.

My Association may mention that sometime after the Great War when the prices of foodstuffs were abnormally high, the condition of the agriculturists was comparatively well off. Though along with the price of rice the price of other articles will rise and increase the cost of what agriculturists buy, still they have sufficient margin of profit to leave them in a better condition.

All the causes enumerated above should be removed as far as possible to improve the condition of the cultivators. In addition to this, marketing organisations should be formed and better manures, etc., should be made available where practicable.

Q. 78. The average gross income of a raiyat has been calculated at the office of the Land Revenue Commission.

The cultivator has now no other source of income than working as a labourer or a bargadar in respect of other lands. Unfortunately, my Association has no means to ascertain the average income from these sources. It differs greatly according to ability and activity of the cultivator. If his holding is large, his income from other sources is small, as he has to devote himself greatly to his holding. If his holding is small, he has to earn a great deal from other sources to maintain his family. The families of his household also have to work for living.

If by "maintain themselves and their family" is meant "maintain themselves and their family in plenty or good condition" the percentage of such raiyats would not be high. After the economic depression set in, the condition of many raiyats has become deplorable, they are anyhow maintaining themselves and their families.

We have no data to ascertain the number or percentage of cultivating raiyats who are starving, but in the majority of the cases now-a-days their food is not sufficient to afford adequate and proper nourishment to the body.

Q. 79. My Association is unable to answer this question as no sufficient materials are available. If we are allowed to hazard an opinion, the procedure followed in the United Provinces may be adopted.

Q. 80. *Means suggested.*—

(*i*) This is no doubt one of the modes of increasing the income. But such methods should be adopted after great caution. The raiyat is not a thoughtless primitive creature; ignorant of his own interests,

antiquated in his methods of agriculture. As early as 1832 Dr. Wallick in giving the evidence before a Committee of the House of Commons said "The Bengal husbandry, although in many respects extremely simple and primeval in mode and form, yet is not so low as people generally suppose it to be, and I have often found that very sudden innovations in them have never led to any good result. I have known for instance European iron ploughs introduced in Bengal with a view to superseding the extremely tedious and superficial turning of the ground by the common Bengal plough. But what has been the result? That the soil which is extremely superficial has generally received the admixture under the soil which deteriorated it very much." Dr. Voelcker, Consulting Chemist to the Royal Agricultural Society of England, sent out to India in 1899 to enquire into Indian agriculture, submitted a report in which he wrote "At his best the Indian raiyat or cultivator is quite as good as, and in some respects the superior of, the average British farmer..... What does prevent them from growing larger crops is the limited facilities to which they have access, such as the supply of water and manure. But to take the ordinary acts of husbandry nowhere would one find better instances of keeping lands scrupulously clean from weeds, of ingenuity in device of water-raising appliances, of knowledge of soil and their capabilities, as well as the exact time to sow and reap as one would in Indian agriculture and this not at its best alone but at its only level. It is wonderful too, how much is known of rotation, the system of mixed crops and of fallowing."

What is required is to teach a raiyat to make cheaper or better manure or to make better appliances for the supply of water; to make a better selection of seeds or a cheaper method of threshing; and to stop afforestation; to provide pasture land for cattle and arrange for rotation of crops where necessary. The vast exportation of oil-seeds from the country must be stopped, as they provide manure to soil. Cattle manure is good; but a large portion of the cattle dung which would have served as manure is utilised as fuel. This is done from a scarcity firewood. Dr. Voelcker has recorded "As the result of enquiries I feel, I may safely assert, that where the practice of burning dung as fuel prevails among genuine cultivators it arises in 8 cases out of 10 from scarcity of firewood.

(ii) This method also should be adopted. As the cultivators have no training except in agriculture, they occupy themselves in slack season by working as labourers; and in cultivation season by working as bargadars. They should, however, be provided with other occupations and given necessary training for the purpose.

(iii) It has been already pointed how these industries were stifled. They should be again encouraged and if necessary protection should be given and bounties may also be granted for their encouragement.

It was by these industries as by agricultural occupations that the condition of the inhabitants was so affluent in Hindu and Muhammadan times. Bernier who resided in India for many years during the 17th century speaks of vast quantities of cotton and silk fabrics manufactured by the weavers of India which were shipped annually by the Dutch merchants for the markets of Europe. Millions of Indian artisans found employment and earned an income from weaving these fabrics; and it is scarcely an exaggeration to state that there was hardly a village in India in those days where women did not earn something from spinning and weaving, in addition to what their husbands and sons earned from agriculture and other industries. These industries if revived would again give occupation to millions of men.

(*iv*) My Association has already pointed out the difficulties of collective and co-operative farms. A spirit of co-operation must be fostered before these farms can be brought into existence. It would be looked upon with great suspicion at the outset.

But co-operative marketing organisations may be started; this would exclude capitalists and foreign traders coming in and sharing a portion of the profits which should naturally belong to the cultivators. If the cultivator becomes a sharer of such organisation he would get a portion of the dividend also; he would have a voice in the administration of such organisations and a proper price of his produce would be assured.

(*v*) This may benefit the cultivators but their income will not be increased to any appreciable extent; the cattle possessed by the cultivators are, in the majority of cases, in so wretched a condition that their insurance is not likely and where insurance would be made it will not fetch much money. The cultivators would be unable to pay the premia regularly; they would lose money by forfeiture in many cases. They would not consent to insure their cattle at all.

(*vi*) Crops may be insured to the benefit of the cultivators; but when co-operative society and the cultivator is indebted to the society, the debt is a first charge on the crop, crops are also mortgaged in advance to creditors or capitalists; this greatly minimises profits of the cultivators. Hence this must be stopped.

(*vii*) The cultivators must be trained in thrift and must learn to save; they must be trained to utilise their leisure and spare time; and they must stop spending much in social matters and ceremonial affairs.

(*viii*) Another suggestion is to try to improve their capacity for work by driving out Malaria and other diseases. Sanitary measures would include supply of good drinking water, etc.

Q. 81. Undoubtedly pressure of population is one of the reasons of poverty of agricultural class, though it must be said that some villages

have been decimated by Malaria and sufficient hands are not available for cultivation. A holding one time belongs to one tenant; on his death, it devolves on his numerous heirs who again get large families. So the same land has to maintain a continuously increasing large number of men where it used to maintain one only. As the population increases, profits gradually dwindle away and the misery of the persons living on the same land becomes greater. Migration may reduce the pressure but people are conservative and do not desire to abandon their ancestral homestead unless compelled to do so by circumstances.

In view of the answer given previously about 1/3rd of the present population may be considered to be surplus in respect of the agricultural needs of the country.

Q. 82. *Proposals for relieving the pressure*:—

(*i*) The income from agricultural land should be increased by improved methods of cultivation and extension of cultivation. This increase will maintain some of the surplus population.

(*ii*) Some of the surplus population will have to be provided with other occupations, e.g., industries and manufactures. Development of trades and manufactures must be the primary concern of every Government, as income from this sources is capable of being increased in many ways, whereas a time must come when income from agricultural land would not be capable of further expansion. In order to give impetus to trades and manufactures, it is necessary that the Government should lend its helping hand at the inception. Hence my Association subscribes to the view that the pressure from surplus population should be relieved by directing them to large industries by starting Government-aided factories. Food grains are to be imported for the support of the surplus population from other provinces, if necessary.

Q 83. The gravest defect in the economic organisation of our province is the low purchasing power of the people. The Bengal raiyats are improvident and extravagant. So cheap credit would make matters worse unless the agriculturists are trained in the habits of thrift and saving. Cheap credit is a dangerous thing with those who do not know how to make proper use of the sum borrowed. The village mahajans who want to seize their lands readily grant them money but the agriculturists owing to their extravagance soon run through their money and this is the most potent cause of their growing indebtedness. Their improvidence not only compels them to borrow but also to default in payment of their instalments where such instalments are granted. Agricultural credit nowadays is at a very low ebb owing to the operation of the Bengal Agricultural Debtors Act.

The following suggestions may be made for the improvement of the agricultural credit:—

(1) Some organisations must be started which can finance agriculturists at a very low rate of interest. There are now co-operative

credit societies no doubt, but these have lost or nearly lost the confidence of the people by adopting the methods of moneylenders. The rural credit societies must be piloted by some persons trained in Co-operative methods and the amount granted as loans to agriculturists must not be squandered in the way it is now being done. Some inspecting authority or organisation must be brought into existence who can check extravagance and see that money is spent in productive purpose or money may be advanced to the agriculturists after strictly ascertaining what amount would be requisite for their needs. The money may be advanced piecemeal only when necessity arises. The maximum rate of interest should be fixed. The money thus advanced should be honestly repaid and should not be wiped away by any enactment like the Bengal Agricultural Debtors Act.

(2) The income of the agriculturists should be attempted to be improved by all the methods suggested before.

(3) The Bengal Agricultural Debtors Act, is deficient in many respects. The Act should be repealed. In order to wipe away the debts of the agriculturists it would be necessary to survey their present debts and make a composition with the creditors. The amount thus ascertained after composition must be paid off by the State or by the State-aided organisation and the amount thus paid off will be the first charge on the properties of the debtors. The said debt is to be paid off by easy instalments to be fixed after appraisement of the produce of those lands. Future borrowing by the said debtors should be made in the manner mentioned above in paragraph (1).

(4) Agricultural credit will improve by any means which raises the price of the produce. One method would be depreciation in the value of the rupee by at least 2 pence. Another method would be to stop the annual drain of money into England without any direct equivalent.

(5) Fragmentation and subdivision of holding lessen credit and should be avoided. At present there is no efficient organisation for the improvement of agricultural credit.

Q. 84. The Bengal Provincial Banking Enquiry Committee estimated the agricultural indebtedness of Bengal to be one hundred crores. That is also the value of the gross agricultural produce of Bengal. If we estimate the average rate of interest to be 18 per cent. that goes to the mahajans.

This drain can only be stopped by a scheme of composition with the creditors. Some judicial machinery should be set up to examine locally all debts and try to compose with creditors or fix the amount if that is not possible. The present machinery according to the Bengal Agricultural Debtors Act is worse than useless. It has gone far towards the destruction of agricultural credit. A law may be enacted reducing the rate to 6¼ per cent. (just as in the case of rent) in case of all existing

debts (even retrospectively) due from agriculturists; the law is to remain in force so long as the present debts of agriculturists are not paid off. If the creditors in certain cases had realised a considerable rate of interest exceeding 6¼ per cent., further interest will cease to run. The judicial machinery set up must be composed of trained lawyers; where practicable, Munsifs may be empowered to do this work. Appeals are to be provided when the officers fix the amount to be paid. A system of periodical checking by Circle Officers as to the operation of the law as between creditors and debtors should also be provided for. But they should on no account be allowed to interfere with the judiciary.

Q. 85. My Association regrets to observe that the co-operative credit societies have hitherto not been able to tackle the credit problem of the agriculturists. All that they have been able to do is to reduce the rate of interest to some extent. Some societies report that the members are more thrifty than before. So far as this district is concerned, the rate of interest realised by such societies has never been too high. The Midnapore Central Co-operative Bank has about two years ago, reduced its rate of interest further, *i.e.*, so far as it could.

The co-operative societies have not actually benefited the agriculturists to any appreciable extent; they are now being considered in the same light as mahajans. The reason is not far to seek. The co-operative movement can only succeed if the members learn the principle and imbibe the spirit of co-operation. The members are illiterate or almost illiterate agriculturists. Nobody takes care to inculcate in them the spirit of co-operation. They are, by nature, improvident; and their needs have become so great that they do not care for those principles which also seem to be too high for them.

In the district of Midnapore, only about 4 per cent. of the agriculturists are members of the co-operative societies. Only about 1 per cent. of the societies have been able to wipe away the debts of their members which were not large.

Q. 86. My Association is of opinion that Debt Settlement Boards have failed to deal with the problem of agricultural debts. They are not dealing with it; they are laying violent hands on agricultural debts, because they have not the capacity, the intelligence, the training to deal with a particular case. They do whatever they are instructed by their Circle Officers to do. And this they openly avow. If the Circle Officers are to be all in all in the Debt Settlement Boards we do not see why these Boards should exist, for it is as it were the Circle Officer who alone composes the Board. Further the rumour goes and it is not without foundation in many cases that those who compose the Board find in it an instrument for illegal gain. A Board which is entrusted with judicial power must be a failure if it is dishonest, if it has an eye more

to it legal gain than to anything else. As they want the capacity to decide a point judicially they seek occasion wherein they may get some pecuniary benefit, illegal or otherwise, which they regard more as their remuneration for discharging the functions allotted to them. It is reported that they even antedate orders for barring appeals. The problem of agricultural debts requires tact, judiciousness and careful handling. These qualities are wholly wanting in those who compose the Debt Settlement Boards in this district.

The Government has perceived the defects and has tried to implement legislation by rules. Bad enough is legislation by rules, but legislalation by circular letters is worse, particularly when the view adumbrated in such letters is manifestly contrary to the Statute. We may mention one circular letter issued by the Joint Secretary to the Government of Bengal of this department on the 19th of May 1938. The letter was addressed to the Collector of Mymensingh and said that a money decree obtained for the money value of the share of crops under any system of adhi, barga or bhag cultivation is a debt within the meaning of the Act. This interpretation is contrary to the statute and it passes our comprehension by what process of reasoning or on what words of the statute this conclusion was reached. No Government has the right by means of circular letters to divert the course of law to a channel which the legislation did not design it to follow. Then there are the letters of the Subdivisional Officers and the instructions of the Circle Officers. The members of the Boards have no other option than to follow those instructions. The members of the Debt Settlement Boards are doing judicial works really under the control and dictation of the administrative officers who have no legal training in matters relating to contract or transfer.

By the Bengal Agricultural Debtors Act extensive judicial powers have been given to the Boards. They are to determine who is an agriculturist; this involves knowledge of the tenancy legislations which are complex in themselves. They are to determine the existence or otherwise of debts which would involve the knowledge of contract, of evidence and of other matters. The law of mortgages, with which they have to deal, occasionally involves very complicated principles of law, e.g., of subrogation, of splitting up of securities, of substituted securities and of marshalling and contribution. Only trained lawyers are fitted to take part in the proceedings. The lawyers are not allowed to appear before the Boards, yet the Boards are vested with ample powers to determine what is often difficult to determine in a Civil Court and trial courts and appellate courts often differ in their estimation of evidence and interpretation of law. Instances may be cited where the Debt Settlement Boards have decided that debts have been entirely paid off without a shred of legal evidence. This is not justice but denial of justice.

If a creditor receiving a notice from a Debt Settlement Board fails to attend he renders himself liable to prosecution under the Indian Penal Code. This is wholly unjustifiable and tryrannical. If a creditor neglects to appear and assert his claims, he suffers the consequence as the debtor may deny his claim altogether or admit it only partially. There is no reason why he should not be allowed to neglect his own interest if he chooses and why the Debt Settlement Boards should set about doing good to people by force.

But the most glaring defect is that persons without any legal training are allowed to stay the hands of the highest tribunals of the land including the Privy Council. It may be presumed that those cases which involve most intricate questions of law are taken to the High Court or the Privy Council and it requires all the legal acumen of the most brilliant lawyers—lawyers who have been trained from their youth in legal subtleties—to decide the points raised one way or the other. It passes our comprehension how those who compose the Boards and who have not the capacity to understand a bit of law and who have to resort to Civil Courts for trial of their own cases relating to contract or transfer and who stand aghast when complicated questions are raised, could be vested with jurisdiction to cripple the power of those very Courts.

Not only Courts, arbitrators appointed under Co-operative Societies Act who cannot by any stretch of language be called courts have been brought within the purview of the Debt Settlement Boards. We do not know where this will stop.

Owing to the operation of the Bengal Agricultural Debtors Act agricultural credit has disappeared altogether. The mahajans in the rural areas who used to keep up the agriculturists by advancing money or grains to them in lean years or seasons and would realise part of the loan either in money or in kind during the harvesting season are not advancing money or grains to the raiyats altogether. The mahajans themselves are resorting to the Debt Settlement Boards thus trying to realise whatever they can get, determined not to pay any further loan in future. This has resulted out of the endeavour of the Debt Settlement Boards to wipe off the debts of the agriculturists forcibly as far as possible. In fact, legislation contrary to the course of natural or economic laws can only result in aggravating misery and disaster amongst mankind.

Two Appellate Tribunals have been set up—ordinary and special. There is often scrambling for jurisdiction, for instance, when an ordinary Board has passed two orders one under section 17 and the other under section 18; one party at once rushes to the Appellate Officer for setting aside the order passed by the Board under section 17 and the other to the Special Appellate Officer for modification of the order under section 18. The Special Appellate Officer would wish that both the questions should be determined by him alone. But the ordinary

Appellate Officer is determined to dispose of the appeal before him. Who should decide the dispute between them? It may be mentioned that there are other defects in the Bengal Agricultural Debtors Act which are too numerous to mention.

Suggestions for improvements have been made in reply to question 84.

In the opinion of my Association the entire Bengal Agricultural Debtors Act should be repealed.

Q. 87. My Association is in favour of establishing agricultural banks throughout the province in preference to Land Mortgage Banks for the benefit of the agriculturists. But these banks should not be established as rivals of co-operative societies or banks. They should be vested with all the powers of the Land Mortgage Banks. The agricultural banks should encourage agriculture by inducing the agriculturists to sow and cultivate various sorts of seedlings for agriculture. They will advance seedlings to the agriculturists whenever they are in need for it. These agricultural banks will take up all the debts of the agriculturists after composition with the creditors and advance systematic loans for financing agriculture at a low rate of interest, the interest and principal or a major portion thereof being realised as soon as the crops are cut and gathered. These agricultural banks must be placed under the direct supervision of the Government at least for some years at the commencement, the Government renouncing control as soon as fit and proper persons are found ready to conduct the business of the banks with profit.

These may also serve as repositories of such grains produced by the agriculturists as are not immediately needed for their expenses. If funds permit, those banks will retain experts who will train agriculturists in improved methods of cultivation and improving the soil. Such banks, to be successful, must be conducted by efficient men. As there are considerable dearth of such men in the mofussal, such banks will have to be established in some selected places at first. Such banks will be conducted on co-operative principles and will supersede the co-operative societies now existing. Part of the loans granted by such banks must necessarily be short-term loans. But the loans taken over from mahajans must be long-term loans.

Q. 88. My Association has learnt with regret that the Land Mortgage Banks are not functioning properly. They are in the same condition as other co-operative banks. In fact since the economic depression, finding that the agriculturists are unable to pay up their short-term loans, the co-operative societies are advancing loans mostly on mortgage of lands. Hence the co-operative societies are individually so many Land Mortgage Banks.

The then Assistant Secretary of the Midnapore Central Co-operative Bank, Ltd., Mr. M. N. Basu, in his reply to the questionnaire issued

by the Bengal Provincial Banking Enquiry Committee advocated the establishment of Land Mortgage Banks as a department of the co-operative banks and pointed out how they may be of any utility to the agriculturists. (*See* Report of the Bengal Provincial Banking Enquiry Committee, Part I, p. 551.) The Provincial Banking Enquiry Committee in its report supported his view by saying that there was hardly any case for a separate Land Mortgage Bank in Bengal. On the other hand if the Central Bank carry on this business there will be certain positive advantages. The most important is economy and efficiency of management, which is not possible for a separate institution as has been pointed out above.. Land mortgage loans will be availed of for the present, largely for the repayment of old debts. Thus the volume of business will not at first be very great, although expert staff will have to be maintained, for administering the loans at a considerable cost. If short-terms and intermediate operations are carried on at the same time as the long-term operations these costs will be distributed. But, if a separate institution is started, the only course for minimising the expenses open to it, is to increase the area of its operations with the result that there will be an insufficient control over borrowers, thus nullifying the chief object of a co-operative land mortgage bank, namely, the supply of regulated credit. Besides this, there is an obvious advantage in supplying both short term and long term needs to the same institution. It is by this means alone that a proper check can be kept on borrowing and at the same time the employment of loans for their legitimate purpose can be insured.

The above salutary recommendations of the Banking Enquiry Committee were not adopted and the result has been the birth of some still-born institutions which are almost unable to meet their requirements. Instead of maintaining several institutions, my Association advocates the establishment of agricultural banks which will take up the functions of co-operative credit societies and Land Mortgage Banks.

Q. 89. If it is meant that the machinery available to the landlord for amicable realisation of their dues is costly and cumbrous, my Association does not agree. If it is meant that the machinery available to the landlords for realisation of their dues through court is costly and cumbrous my Association would agree. In fact there is no machinery for prompt realisation of their dues through Court. The present procedure is harassing and expensive to the tenants. In an area, where the record-of-rights has been framed and finally published, my Association recommends that the procedure prescribed by Regulation VIII of 1819 for realisation of patni rents should be adopted with such modifications as may be necessary for prompt realisation of dues from the tenants. All intermediate changes effected after the preparation of record-of-rights between the landlords and tenants should be notified to

the Collector and a maintenance register may be kept for recording the intermediate changes. If this is done no complex question would fall in to be determined between the landlord and tenants in the courts in which the application for realisation of dues would be made. If the proceeding is started at a time when the time of realisation would synchronise with the harvest season there would be prompt realisation of landlord's dues without much hardship on the tenants.

Q. 90. My Association thinks that the procedure adopted for the recovery of rents through the Public Demands Recovery Act is harassing and objectionable. Warrants for attachment of movables, for arrest and proclamation for sale are often issued simultaneously thereby unnecessarily increasing the process fees to a great extent. Thereafter the judgment-debtor is insulted by being brought before court or his movables are attached and sold for a song. The judgment-debtor, to avoid the insult involved and to save the very few essential movables he possesses, has to borrow money at high rates of interest from mahajans and thus place himself in a more precarious position. His door frames, doors, windows, etc., are removed if he cannot pay and the judgment-debtor has often to suffer the rigours of winter probably for no fault of his own. If there has been sale of his property at a very inadequate price any objection that he prefers is often rejected and the rigorous provisions of the Act bar his remedy in the Civil Court. The chief defect lies in the fact that the Certificate Officer himself has to try judicially the objections raised and he is more or less under the impression that all objections however valid to the speedy realisation should be rejected.

Under the Public Demands Recovery Act notices are issued on all judgment-debtors and simultaneous warrants for attachment of movables are issued against each of the judgment-debtors. The result is that each of the judgment-debtors if they are separate has to pay the entire amount for which the certificate is issued, to the distress of all judgment-debtors concerned. The distress is increased if some of them have already paid their shares to the certificate creditor and the certificate is issued for the balance. The persons who have already paid are thus justly made to pay twice over. These are inequitable, unjust and harsh measures and can never be justified.

The sale of immovable property is a more effective method of realisation of dues than the attachment of movable property. This will appear from the Statements XIII and XV compiled at the Land Revenue Commission; whereas less than one per cent. had to be sold for arrears of revenue in temporarily settled estates the percentage of collection in khas mahals was about 94. The collection of rent in the Government khas mahal falls far below the percentage of collection of revenue from the permanently settled estates even in these years of economic depression.

The machinery suggested for the speedy realisation of rents in reply to question 89 may also be availed of by the Government in khas mahal.

Q. 91. My Association does not see any utility for the measure proposed. It is better that an Act or Regulation is allowed to remain intact than to replace it by a new Act unless this is absolutely necessary. The history of the legislation would soon be forgotten and the future generation will have scanty regard for those regulations which have been instrumental in bringing about ordered progress. An edition of the Revenue laws may be brought out and therein the substance of those laws may be stated in a simple form. If any Regulation or Act is complicated that complication only may be removed by an amendment.

Q. 92. There is no Revenue Law or Regulation which operates harshly on tenants; there were some which have been entirely repealed.

Act XI of 1859 operates harshly on landlords. Some latitude should be given to the landlords to pay up their dues. The zamindars of permanently settled estates can get remission of revenue only in very exceptional cases. Several provisions of the Bengal Tenancy Act which circumscribe the power of the landlords also operate harshly on them. Their power of distraint has been taken away. Attachment of agricultural produce is allowed only under very exceptional circumstances. The procedure prescribed for the realisation of rents in case of non-payment of rents is extremely dilatory, while the Government does not allow any extension of time for payment of revenue of a certain kist. The rent for that kist can only be realised after some years have elapsed from that time. The new amendments of the Bengal Tenancy Act have taken away their right of enhancement for ten years. Their right to have the landlords' fee, their right of pre-emption have also been taken away without any compensation. They cannot sue for rent before the expiry though they have to pay their revenue in time. Their interest on the arrears of rent has been reduced though the mahajan can realise 3 or 4 times as much interest as they get. The law relating to usufructuary of nine months from the date of the institution of the previous suit mortgages is inequitable. Subdivisions of holdings have been allowed before on economic units, thus lowering agricultural credit.

Q. 93. The probable economic effect of the Tenancy Amendment Act of 1938 would be as follows:—

(1) The effect of grant of unrestricted transfer of occupancy holdings. The effect of this would be that undesirable persons would come in leading to eternal conflict between landlord and tenant. Even when landlord used to get transfer fees, instances were not rare when raiyats made benami dispositions of property in favour of litigious or factious persons to put the landlord into trouble. The raiyats are proverbially poor and improvident, they will soon lose their lands and all the lands will

go to the mahajans or to a capitalist class who are not *bona fide* husbandmen and cultivation is bound to deteriorate in consequence. It is a principle of sound economics that if the interests of farms conflict with those of the farmers, the latter will have to go. If the transfer is made to another cultivator, he may acquire more than he may cultivate himself, this also leads to deterioration of cultivation. A true peasant is one who remains a peasant. He should not be a middleman for any portion of his holding. If holdings are sold in parts it will lead to minute subdivisions, into parcels of lands not capable of being cultivated. A holding should not deteriorate below an economic unit. By unrestricted transfer new sets of tenants will come in who may not perform their obligation and may endanger security of tenures. When even a mokarari raiyat has to pay landlord's fees there is no reason why an occupancy holder should not.

(2) The right of pre-emption is a corollary to the right given to the raiyat to transfer his holding, when a raiyati right was made transferable by Statute in 1929, the landlord was given a corresponding right so that he may choose whether a transferee should be allowed to be his tenant or not. If the landlord found that the transferee is likely to prejudice the interest of farms or impair the security of tenure the landlord has no other option than to exercise his right of pre-emption. That assured him peace, good-will and co-operation. Now these rights of pre-emption having gone there is likely to be eternal conflict between a landlord and a tenant. The landlord also by exercising his right of pre-emption prevented it from its being used for purposes other than agricultural and in some cases he prevented the holding from deteriorating below an economic unit. The right of pre-emption was a salutary check on indiscriminate and reckless transfer on the part of the improvident and poor raiyat. The landlord's right of pre-emption in case of sale has been recognised to be necessary in Europe for rooting out unethical practices in farming and for improving farms. Now that the agricultural credit is almost nil in the mofussal, raiyats are not getting money and paddy as loan and they would consequently be compelled by necessity to sell off portions of their holdings to meet their necessary expenses. Thus there is likely to be a large number of sales in the near future and many undesirable persons who are not *bona fide* husbandmen would purchase these holdings. The holding will consequently deteriorate as the only other person who could prevent this, namely the landlord has been deprived of his right to do so.

(3) The provisions regarding usufructuary mortgages are not only inequitable but will serve to lower agricultural credit.

(4) The under-raiyats have been given a status almost equal to that of raiyats. This would encourage the raiyats to sub-let their holdings whereas the policy of law should be to discourage sub-letting by a raiyat. The policy that holding should not be sub-let or subdivided

below an economic unit has been adopted in all land legislation in Europe. A true peasant is one who remains a peasant and does not become a middleman by sub-letting his holding. If the under-raiyat allows the land to deteriorate there is no remedy either by the raiyat or by his landlord. The holding will be subdivided below an economic unit and agricultural credit will be further lowered.

My Association has only stated here the likely broad effects of the Act. There are other consequences which will follow from other provisions of the new Act, but they are of minor importance as compared with the results stated above. Hence they are not enumerated.

The figures compiled at the Land Revenue Commission show that the loss of landlord's income owing to the abolition of landlord's fee is about 3½ per cent.

Reply by the Midnapore Zamindari Company, Limited.

Q. 1. The description of the duties and obligations of the zamindars after the Permanent Settlement was concluded, is exhaustive.

The Permanent Settlement with the zamindars did not take away any existing rights from the tenants.

Q. 2. Permanent Settlement did not convey any power to the zamindar to choose his tenants or to regulate the usage of the land to the economic interest of the province. The Permanent Settlement confirmed these powers which the zamindar already had.

Q. 3. The landlords have played a large part in the economic development of the country since the Permanent Settlement. The zamindars encouraged settlers on the land by granting them leases on easy terms and also farmed extensive areas themselves giving facilities for the labourers to settle on the land.

In our own estates much has been and is being done to help tenants to improve their lands by improving irrigation, building bunds, damming streams and otherwise trapping water for use in the dry season. Tenants are encouraged to use improved seed and the services of pedigree bulls for improving tenants' cattle are supplied. Roads have been made and improved, and huts and bazars instituted and encouraged.

The zamindars have encouraged the cultivation of indigo, jute silk and sugarcane.

In addition to the actual development of lands the zamindars have encouraged and contributed materially to the increase of educational and medical facilities for cultivators. They have also gifted lands for religious purposes.

We do not consider that the landlords have failed to perform the functions expected of them after the Permanent Settlement.

Q. 4. It is not correct to say that the Permanent Settlement converted the status of zamindars from collectors of revenue to actual proprietors of the soil. The zamindars were the actual proprietors of the soil before the Permanent Settlement.

Q. 5. The annulment of the Permanent Settlement would be a breach of the solemn pledge given by the East India Company to the zamindars and confirmed by the Crown.

The tenants were not parties to this pledge. It is not true to say that the Permanent Settlement was a measure which permanently crippled the financial resources of the country. The Permanent Settlement ensured the Government receiving a regular income at a low cost of collection.

Q. 6. See reply to question 3.

The large increase in the area brought under cultivation since the Permanent Settlement is due in part to all three of the causes mentioned in the question but mainly to nos. 1 and 3.

Q. 7. See our reply to question 6 and question 3.

Enhancement of rents has played a part in the increase of the rent roll but in our opinion the major part has been played by the industry and good management of the zamindars.

Q. 8. In our opinion the zamindars have not failed to conduct themselves with moderation towards their tenants.

Q. 9. See our replies to questions 7, 6 and 3

The Permanent Settlement did not impose on zamindars any duties which they have failed to carry out.

The last part of this question does not therefore arise, but we would point out that "absenteeism" is of very recent growth.

Q. 10. We are of opinion that the Permanent Settlement was in the interest of the country economically and consequently for the greatest good of the largest number. The Permanent Settlement has led to a revenue system which is to the benefit of the province.

The Permanent Settlement has not led to a revenue system which has resulted in the advantage of the landlords at the expense of the tenants.

Q. 11. The first ground on which the Permanent Settlement is said to have been assailed is not understood. In any case the figure of 80 per cent. is, as regards the zamindars, imaginary.

Subinfeudation existed before the Permanent Settlement and the blame for its subsequent increase must be laid not at the door of the Permanent Settlement but at that of subsequent legislation.

In our opinion the Permanent Settlement has not made any difference to raiyati rents. We would point out that enhancement of raiyati rents is greater and more frequent in temporarily settled estates than in permanently settled estates.

The statement that the Permanent Settlement has created a system of overlordship over the actual cultivators of the soil, which is harassing and oppressing, must be refuted. The existence of accumulation of arrears of rent shows that the landlords have not acted oppressively.

Q. 12. We do not advocate the abolition of the Permanent Settlement on any or all of the grounds referred to.

Q. 13. (1) We do not advocate the total abolition of the zamindari system.

(2) We do not advocate the cancellation of the Permanent Settlement and substitution of the system of temporary settlement in its place.

(3) We do not advocate the imposition of a tax on agricultural income.

Q. 14-15. In view of our reply to question 13, these two questions do not arise.

Q. 16. We consider that the State purchase of the zamindaris would have a disastrous effect on the social structure of Bengal.

Q. 17. In our opinion, the interests of all tenureholders between the zamindar and raiyats should not be purchased by the State.

Q. 18. We do not know what additional machinery would be required to carry on administration under the changed conditions visualized. We would point out that State management is invariably more expensive than individual management.

Q. 19. We do not think the raiyats prefer to come under Government and pay rent to it direct.

The khas mahal raiyats enjoy no advantages over tenants under the proprietors of permanently settled or temporarily settled estates.

Q. 20. For the first part of this question see our reply to question 11.

We do not consider that the Permanent Settlement encouraged the creation of permanent tenures by zamindars. This was encouraged by subsequent legislation. Such as Patni Regulation, Act VIII of 1819, Act X of 1859, the Bengal Tenancy Act, 1885, and subsequent amendments.

The creation of permanent tenures has had no economic effect on the position of the raiyats.

Q. 21. See our reply to question 16.

Q. 22. If the zamindaris and tenures are purchased by the State, their homesteads and khas lands should be left to the enjoyment of the zamindars or tenureholders.

The ascertainment of the zamindars' and tenureholders' khas land might be made from settlement records, records of subsequent purchases through Courts and Registration offices, and from landlords' returns.

Q. 23. Some such customary rights existed prior to the advent of the British but British legislation greatly amplified the right of occupancy.

Q. 24. In view of our previous answers in connection with the proprietorship of the soil, this question does not arise.

Q. 25. We are not in favour of maintaining or extending the principle of giving occupany rights to under-raiyats. We are in favour of confirming the granting of occupancy rights to the tenant actually cultivating the soil.

Q. 26. (*a*) In the case of a tenant partly cultivating his own land and partly subletting, occupancy rights should continue in respect of that land cultivated by the tenant. The cultivator of the sublet portion should be enabled to purchase the superior right at a market value.

(*b*) The lessee should be permitted to purchase the superior right as suggested in our answer to the first part of the question.

Q. 27. It was not the intention of the Permanent Settlement to give protection to all classes of tenants including non-agriculturists.

We are not in favour of giving occupany rights to non-agricultural tenants.

Q. 28. The statutory rights of the zamindar should persist in land which has been converted to use for non-agricultural purposes.

We do not approve of the State levying any additional tax for such converted holdings.

We would point out that where land has been converted to use for non-agricultural purposes, the State has already levied taxes on the profits of such non-agricultural purposes, e.g., income-tax, cesses, rates, etc.

Q. 29. The number of bargadars and others cultivating on a share of the produce is on the increase.

Among the causes of this increase are (*a*) the economic depression, (*b*) the effects of education, (*c*) the operation of the laws of inheritance, (*d*) Government legislation as exemplified by the Act of 1929.

Q. 30. The fact that the amending Act of 1929 has not given the bargadars any statutory rights has not contributed to the increase in the number of bargadars.

The second and third causes mentioned in the question have contributed to the increase in the number of bargadars.

Q. 31. The area normally held by the bargadar depends on the means of the bargadars, the locality of the land in question and the fertility of the soil.

The majority of bargadars also hold land in raiyati or under-raiyati right.

Q. 32. We do not consider that the right of occupancy should be extended to bargadars.

We do not consider that the bargadars require any protection.

Q. 33. In our opinion, the barga system is economically sound. The second part of this question therefore does not arise.

Q. 34. One of the effects of giving occupancy rights to bargadars would be that land would tend to be kept in khas possession. The zamindars would cultivate the land in their possession and consequently a large number of people now cultivating as bargadars would be thrown out of employment.

Q. 35. A fair proportion of produce payable by bargadars cannot be laid down. It depends on custom, crop, and circumstances.

No maximum limit should be fixed by law.

Q. 36. The wages of agricultural labourers vary from district to district, according to season and crop, and depend on the kind of work required.

The economic position of agricultural labourers compares unfavourably with that of bargadars and under-raiyats.

Q. 37. We think that the unrestricted right of transfer given by the Act of 1929 has led to the passing of considerable areas of raiyati land to non-agriculturists.

The further facilities given by the Act of 1938 increased this tendency.

This will be prejudicial to the interest of the cultivating raiyats as a whole.

We are in favour of restricting transfer to agriculturists only.

We consider that the restriction of transfer to agriculturists only is practicable.

We would suggest that transfers should be registered and the landlord's right of pre-emption should be restored.

Q. 38. The minimum size of an economic holding is from 3 to 5 acres, depending on the locality and the fertility of the soil.

Q. 39. It is a fact that the size of many raiyati holdings is uneconomic.

It is the case that the laws of inheritance, the statutory rights of transfer and the increase of population are all tending to further subdivision and fragmentation of holdings.

Q. 40. In our opinion, consolidation of holdings is desirable for more economic cultivation, but we do not consider it to be practicable except by mutual agreement.

Q. 41. We would give special facilities for exchange by mutual agreement to a cultivator to consolidate his holding. We would point out that consolidation of holdings is being encouraged in our estates at the present time.

Q. 42. We do not consider accumulation of large areas in one particular hand undesirable so long as the hand is that of an agriculturist.

In order to prevent large accumulations in the wrong hands we would suggest that the landlord's right of pre-emption should be restored and we would refer to our reply to question 37.

We would not place any limit on such accumulation provided it was in desirable hands.

The third part of this question does not therefore arise.

Q. 43. We agree that coparcenary is detrimental to good cultivation. We do not see how this evil can be minimised without interfering with the laws of inheritance.

Q. 44. We do not consider that the evil effects of coparcenary can be stopped without making radical changes in the laws of inheritance. Fragmentation could be restricted by legislation for minimum transferable areas, which should not be less than the economic holding.

Q. 45. We do not understand this question.

Q. 46. The answer to this question is "Yes."

Q. 47. It is not our view that the framers of the Permanent Settlement contemplated similar permanency and fixity of the rates of rent either in the case of tenants then existing or in the case of tenants who might subsequently be introduced on the land. We consider that had the framers of the Permanent Settlement contemplated the permanent fixing of the rates of rent, there would have been mention of this in Regulation I of 1793.

Q. 48. In view of our reply to question 47, this question does not arise.

Q. 49. As we do not agree that it was the intention of the framers of the Permanent Settlement that the rents of the tenants then existing

should never be increased, we cannot agree that there is any case for reducing the rents of such tenants in future or retrospectively to the level prevailing at the time of Permanent Settlement.

In any event we consider the suggestion as impracticable.

In our estates any of our tenants who has a grievance has access to our Managers at all times and all cases are sympathetically considered.

Q. 50. In view of our reply to questions 47, 48, and 49, this question does not arise.

Q. 51. We do not consider that it was the intention of the framers of the Permanent Settlement that all future settlement of waste lands should be made at the pargana rates.

The second part of this question therefore does not arise.

Q. 52. The answer to this question is purely a matter of individual opinion.

Q. 53. The majority of rents paid by cultivators cannot be described as "lump" rents.

Rents are fixed mainly in accordance with custom and after consideration of the productivity of the land.

It is not true that in practice the rates differ greatly for lands of similar value in almost every village and estate.

Q. 54. It is not our experience that the poorer and weaker tenants pay higher rents.

Q. 55. We would not recommend the re-adjustment of rents on a uniform basis throughout all parts of the province.

The remainder of this question does not therefore arise.

Q. 56.

Q. 57. We do not consider that rents should be fixed in perpetuity or be alterable according to the money value of the produce and the needs of the State from time to time.

We consider that the rates of rent should be re-examined every 20 to 25 years.

Q. 58. We do not understand how income-tax on profits from agriculture could take the place of rent, which is payable to the landlord and not to the State.

The second part of this question does not therefore arise.

Q. 59. The Bengal Tenancy Act leaves too much to the discretion of Settlement Officers and Revenue Officers.

Q. 60. Fluvial action is an act of nature and its benefit therefore should go to both landlord and tenant.

We do not object to enhancement as a result of fluvial action.

It is not fair that a particular tenant should get all the benefit of the improvement and the landlord nothing.

Q. 61. We do object on principle to enhancement on account of rise in prices, subject to our reply to the last part of question 57.

Q. 62. If holdings were all of an economic size as we recommend, this question would not arise.

Q. 63. If there were provisions in the law for a reduction of rent on the ground of prevailing rates, we should regard it as essential that there should also be provisions for enhancement of rent on the same ground.

It is not usual for the raiyat to improve land at his own expense and salami is not advance rent. The second part of this question therefore does not arise.

Q. 64. There should not be a provision of law for reducing high contractual rents, or for limiting rents for new settlements.

Q. 65. The chief defect in Chapter X of the Bengal Tenancy Act is that there is no provision for an appeal from the Revenue Officer to a Civil Court in connection with the settlement of fair rents. Apart from this, in our opinion, the procedure is not bad.

Q. 66. We know of no cases where the settlement of fair rents in private estates under section 105 of the Bengal Tenancy Act, resulted in unfair enhancements.

The second part of this question therefore does not arise.

Q. 67. It is true that revisional settlements are usually made with the primary object of enhancing revenue, and this is particularly so in Government estates.

Q. 68. In nearly all Government estates, enhancements have obviously been unfair.

Q. 69. It was in our opinion a mistake on the part of the Government to go on with any revisional settlement and to enhance the rent of any raiyat during the years when prices were steadily going down.

This policy has led to legitimate grievances on the part of tenants of Government khas mahal estates.

Q. 70. We cannot answer this question which should be answered by Government khas mahal officers.

Q. 71. In our experience, many applications were made for remission in temporarily settled estates during the slump period and on account of calamities from floods.

No remission, as far as we know, was allowed. No remission has been granted by Government to zamindars in permanently settled estates.

Q. 72. The answer to this must depend on the locality and the nature of the soil.

Q. 73. It is understood that the productivity of the soil in Bengal is generally on the decrease.

One reason is the present day necessity of maintaining the rivers and rivulets of the delta in fixed courses.

Government have not noticeably taken any steps to improve the fertility of the soil.

Q. 74. The provisions of the Acts referred to have not been taken advantage of by agriculturists to any extent.

The cultivators are ignorant of the provisions of these acts, which are not applied with any vigour.

Q. 75-76. We cannot answer this question which should be answered by Government khas mahal officers.

Q. 77. In our opinion the general policy of Government has been to a large extent, responsible for the present uneconomic condition of the raiyats. For example—

(1) The frequent enhancement of rent by Government in khas mahal estates.

(2) The recovery from tenants of expensive settlement costs.

(3) The heavy cost of litigation in courts.

(4) Some of the amendments to the Bengal Tenancy Act and in particular those amendments allowing unrestricted transfer and the abolition of transfer fee and landlord's right of pre-emption (see our answer to question 37).

(5) The Bengal Agricultural Debtors Act and the setting up of Debt Settlement Boards, which have greatly reduced the supply of agricultural credit.

The modifications we can suggest are—

(1) The restoration of a nominal transfer fee and the landlord's right of pre-emption.

(2) The abolition of unrestricted right to transfer.

(3) The revision of the Bengal Agricultural Debtors Act and modification of the constitution and powers of the Debt Settlement Boards.

(4) The reduction of the costs of litigation and of settlement costs.

Q. 78. No reply.

Q. 79. No reply.

Q. 80. The five suggested methods for increasing the income of the cultivator are good but in our opinion are not practicable, at any rate, by passing legislation.

We would suggest that Government should establish centres where the raiyats can obtain good seed at a reasonable cost and that there should be an extension of Government farms.

Q. 81. In our districts and taking the whole area into consideration, it cannot be said that the pressure of population on land is one of the main reasons for the poverty of the agriculturists.

We are unable to reply to the second part of this question.

Q. 82. No reply.

Q. 83-84. We know of no efficient Government organisation which exists for the improvement of agricultural credit in Bengal.

We do not know whether 25 per cent. of the gross produce of the land goes to the mahajan as interest alone. We would point out, however, that the mahajan is not an unmitigated evil. He has in the past provided the only means of rural credit and his failure to do so at present is largely due to the operations of the Debt Settlement Boards.

In our opinion, mahajans should be licensed and their rate of interest regulated.

Q. 85. In our opinion, co-operative credit societies have not succeeded in tackling the credit problem of the agriculturist.

The rate of interest realised by the co-operative societies from the agriculturists is too high. The co-operative societies have not actually benefited the agriculturists to any appreciable extent.

The reasons for their failure are, their excessive caution in making loans, the making of collective loans and the fixing of too high rates of interest.

An insignificant percentage of the agriculturists are members of such societies.

We do not know what percentage of the co-operative societies have actually succeeded in wiping out the debts of their members, but it must be insignificant.

Q. 86. The Debt Settlement Boards have not succeeded in dealing with the problem of agricultural debts in the right way.

The many unjust awards of these Boards encourage debtors to incur liabilities under the impression that they will be given a very long time in which to pay a part of their debts and that they will be let off the balance. Many of the members are entirely uneducated men with no knowledge of law.

We would suggest that the constitution of the Boards should be remodelled entirely and that they should have a paid President who should be conversant with the law and who should not be a debtor himself. The powers of the Boards should be completely revised and they should be competent to deal only with purely agricultural debts not including rent.

Q. 87. The banks and societies already established have obtained little support from true agriculturists.

The cultivator fears the rules and regulations which he cannot understand. We would refer here to our reply to questions 83-84.

Q. 88. No reply.

Q. 89. It is a fact that the machinery available to landlords for prompt realisation of their dues is too costly and cumbrous.

It is unnecessarily harassing and expensive to the tenants.

We would suggest the following improvements:—

(1) The service of notifications and summonses should be speeded up by using registered postcards for this purpose.

(2) Court fees should be reduced.

(3) The execution of decrees should be speeded up.

(4) There should be better control over process servers.

(5) Local courts should be established on the lines of union boards with power to deal with amounts up to Rs. 100.

(6) There should be "sunset" law power for landlords, such as is now applied under the revenue laws to zamindar.

(7) Debt Settlement Boards as at present constituted should be abolished.

(8) Symbolical possession should be considered physical possession and vigorous action taken against trespassers in this connection.

(9) Vigorous action should be taken against corruption in the Courts.

Q. 90. The recovery of rents through the "Public Demands Recovery Act" is not harassing and objectionable so long as average crops are obtained. See our reply to question 89.

Q. 91. There should be a simple Act embodying the main provisions of Revenue Regulations and Acts passed subsequent to 1793.

Q. 92. Section 14 of Act XI of 1859 should be modified.

Notice should be first given to the mortgagees to deposit the defaulted amount. If not deposited by them, then notice should be given to the co-sharer landlords that a co-sharer paying the defaulted amount will be considered as a purchaser, not subject to encumbrances.

What is termed the "sunset" law is probably the most harsh; a zamindar must pay his revenue at a stipulated time and yet he is not armed with any powers to demand rents from his tenants by the same means to meet such revenue. Section 14 of the Revenue Sale Law acts harshly on the zamindar having separate accounts within his tauzi. A small zamindar owning a very minute share in a tauzi carrying a separate revenue account may default his revenue and the share is put up to revenue sale, if purchased it is done so with all encumbrances, and this alone very often prevents any of the co-sharer zamindars from bidding at the sale. If the property is not sold after due time the whole of the separate accounts are closed and for the default of one insignificant share of unpaid revenue the whole tauzi is put up for sale, and to protect their own interests the non-defaulting zamindars or landlords have to deposit the defaulted amount and then realise what was originally a debt to Government at their own expense.

We suggest that the law be amended so that a defaulting share can be put up to sale free from all encumbrances and that should the sale proceeds not equal the default the remaining shareholders be called upon to contribute the balance.

Tenures and under-tenures should not be affected by the sale of superior rights in executions under the Revenue Law and Patni Acts.

Q. 93. One of the effects of the Tenancy Act Amendment of 1938 will be that lands will pass into the hands of non-agriculturists and tenants will become bargadars. In the cases of estates lying near rivers, expenses will be heavily increased by section 86A and litigation generally will be increased.

The loss of income by zamindars owing to the abolition of the transfer fee will be small compared to the damage which will be done to their estates by the influx of undesirable middlemen and land speculators who have not the best interest of the land at heart.

Oral evidence of the Midnapore Zamindari Company, Limited, on 7th March 1939.

PRESENT ON BEHALF OF THE COMPANY.

(1) Mr. David Somerville;

(2) Mr. Andrew Somerville;

(3) Mr. G. W. Woodgates; and

(4) Mr. Keith Smith.

In reply to the Chairman, *Mr. Somerville said that the Midnapore* Zamindari Company *controls an area of 15 lakhs of acres.* The Company has rights as a *proprietor, patnidar, darpatnidar* and other degrees of under-permanent tenures, tenureholder, under-tenureholder, raiyat and under-raiyat and is also a proprietor and a tenant under Government. The Company's earliest interests were leased and purchased at a time shortly after the Permanent Settlement. Our records show that prior to the Permanent Settlement these interests were owned by Europeans, that they in their turn, as private owners, had leased or purchased from the previous proprietors, whose proprietorship of some of these interests is shown by our records to have existed even at the beginning of the 18th century. *Most purchases took place after 1819* when the Patni Regulation was enacted. *The Company has recently* purchased some *zamindari property and some tenures.* Generally speaking, the price paid for *zamindari* property was 20 years' purchase. Zamindari property is not however as good an investment as it used to be, although the Company previously did well. The Midnapore Zamindari Company is a public Company with shareholders: recently its dividends have gone down very much. Last year the dividend was 4½ per cent., in the previous years 3½ per cent. and in 1936, 2 per cent. and in the three years before that there was no dividend. The reason for the decreased dividend is partly that tenants are withholding their rents owing to political propaganda and partly that the cost of realisation of rents has increased. The Company is experiencing great difficulty in realising rents owing to the present attitude of the tenants and the defects in the Tenancy Legislation. The Civil Court procedure is very cumbrous and has tended to become even more dilatory. This is due partly to the tenants' unwillingness to pay and partly to the practice of the Courts. The Company has never had certificate procedure. The service of Civil Court notices and summons should be expedited. It would be quite simple to serve notices by *registered* post cards but this is not done. The Courts are mechanical and the calibre of the Civil Court staff is defective.

Execution of decrees should also be expedited. It is often the case that when a jote or a holding is purchased the tenant refuses to leave the land and the court only gives a symbolical possession. Mr. Somerville suggested that symbolical possession should be considered to be physical possession and that trespassers should be proceeded against summarily. At present it is necessary to file ejectment suits which may take two years to conclude, while the tenants enjoy the the crop without paying any rent meanwhile.

Practically all the Company's tenants are in four years' arrears of rent; the collection is not more than 25 per cent. of the current demand, and most current rent is in arrears. Last year almost the entire collection consisted of arrear rents. Taking both arrear and current rents, the collection was between 85 per cent. and 90 per cent. of the current demand.

The Company's rates of rent are very reasonable: while the average rate of rent in Bengal is Rs. 3 per acre, the Company's average works out at Rs. 2-5-2.

He agreed that many of the Company's direct tenants have sublet, but was unable to give an accurate estimate of their number. He thought that 45—50 per cent. might not be actual cultivators. The tendency now is for occupancy raiyats to sell their lands to the highest bidder or to sublet. They are in effect cashing in on their occupancy rights. The under-raiyats pay 2 or 3 times the raiyati rate of rent. He considered that this is a full economic rent. In some cases it is higher and might operate harshly if the harvest is bad.

The number of bargadars is increasing, but he considered that the system is economically sound. The Company has some lands which are cultivated by bargadars. The Company pays one-half of the cost of seeds and the bargadars pay the other half and supply the bullocks and ploughs. The Company takes half the crop but it is very difficult to realise the full half share because the bargadars are very astute and often remove part of the crop even sometimes before it is ripe. The Company usually sells their share of the standing crop. The barga system is beneficial to the community as a whole, as well as to the bargadars, because if there is a failure of crop he has nothing to pay. Mr. Somerville agreed that the outturn of rice in China and Japan generally is much higher than that in Bengal, but thought it would not act as a stimulus to greater production if the bargadars were given the rights of tenants and obtained the whole value of any increase in yield from improvements. Generally speaking, cultivators are too indolent to make improvements, and he thought that cultivation by bargadars is just as good as that by cultivators with occupancy rights. He mentioned that bargadars under the Company often buy the Company's share of the crop.

Tenants do not look after their lands as they used to, and one reason for the poor yield is that the majority use the poorest grain of their crops for seed, adulterated and mixed varieties of paddy seed which ripen at different times. The Company has done a lot to improve crops. Sugarcane, including a new strain of Coimbatore, jute, fodder crops and good seed have been introduced. Mr. Somerville had also tried to introduce an early maturing strain of paddy called Shaity and Jamura which ripens in about 70 days as against the normal period of 90 days. This has become necessary in some areas on account of successive floods. He asked the Government Farm at Dacca to supply him with 500 maunds of seed but after considerable delay he was only offered two maunds.

As regards improvements made by the Company he stated that most of the roads, canals and bunds within its property have been constructed by the Company. He also mentioned that the Company since 1906 has brought 40,000 to 50,000 acres under cultivation and gave the land rent-free to tenants for three years (*cf.* Nadia Gazetteer, Chapter XVI; Gazetteer, village Kapasdanga and Settlement Report of Char Sarkar-para-Naluapara). The Company has made calculations regarding the cost of cultivation and the outturn, and he undertook to supply the figures[1].

The Company has received no complaints regarding the realisation of abwabs and it would certainly take action against any of their agents who is found to have taken abwabs. Some years ago, the Company issued notices directing the tenants not to pay such demands; but the practice is ingrained in the country, and exists in Government estates as well as in Civil Courts and Debt Settlement Boards.

As regards the reply to questions 57 and 61, he explained that the Company does not oppose adjustments of rent on account of change in prices of staple food crops but considered that such adjustments should only be made after periods of 25 years.

If the Permanent Settlement is abolished, compensation should be paid to landlords and tenureholders at the market value of their property. The Company could now get 18 to 20 times the net profit of its zamindari property.

In reply to the Maharajadhiraja Bahadur of Burdwan, he said that the Midnapore Zamindari Company was formed in 1900 to 1902. He agreed that the Bengal Agricultural Debtors Act has greatly handicapped landlords in the recovery of rents. He thought that at the time of the Permanent Settlment, the tenants had no right of transfer and certainly they had no rights to minerals.

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[1]Figures supplied by the Company have been printed after the evidence.

As regards reply to question 11, he said that subinfeudation is the result of Tenancy Legislation, commencing with the Rent Act of 1859. Landlords are now paying income-tax on markets and on any other non-agricultural income. The collection of cess is expensive and often has to be recovered through the Civil Court. Part of the cess paid by landlords is not recovered from the tenants. The imposition of a tax on agricultural income would merely add to the landlords' difficulties. Government is already realising a tax on land used for non-agricultural purposes: to assess agricultural lands would be a double imposition.

As regards the reply to questions 57 to 61, he said that there should be no interference with the fair rent fixed for 25 years. After that there should be an enhancement or a reduction according to the level of prices. He was in favour of altering the present law which limits the period to 15 years.

In reply to question 73, he agreed that Government has in the past paid little attention to the maintenance of rivers but he thought that it would be too expensive an undertaking for landlords to maintain them if such powers were given.

As regards the reply to question 89, he said that Civil Court process servers generally demand an unauthorised fee for the execution of processes and will not carry out their duty unless it is paid. Landlords have also to pay the Collectorate staff whenever they deposit revenue, withdraw money from the Collectorate, or apply for certified copies, etc.

In reply to Mr. B. K. Roy Chowdhury, he said that when he proposed to confine the occupancy right to actual cultivators he included persons who cultivate through bargadars or hired labour. He thought that a great mistake of Tenancy Legislation has been that occupancy rights have been attached to individuals instead of to the land. If a raiyat sublet part of his holding, he would make him a tenureholder in respect of that area.

In reply to question interposed by Sir F. A. Sachse, he said that there is no need to protect the bargadars. A good bargadar is always in demand and is never changed. He would not give the bargadars occupancy rights, because they would merely be given some thing which had a saleable value and would undoubtedly sell their rights.

Continuing to Mr. B. K. Roy Chowdhury, he said he would define an agriculturist as a person who actually cultivates, either himself, or through a bargadar or by hired labour. He agreed that if transfer is restricted to agriculturists only, the limited number of agriculturists might cause a decrease in the value of land; but he was prepared to agree to any measure which would be for the benefit of agriculture.

In reply to the Chairman, he explained that he wanted the occupancy right to be attached to the land instead of to a tenant whether he be a raiyat or an under-raiyat; but occupancy rights should not be given to bargadars because the land which they cultivate is the khas lands of their landlords and no question could arise of their acquiring occupancy rights in it because bargadars are in effect only hired labourers. The bargadars prefer the present system.

Their number has increased because of the economic depression and other reasons, such as family disputes arising out of laws of inheritance, lack of credit now prevalent, cashing-in by land speculators and non-agriculturists resulting from recent amendments to the Bengal Tenancy Act and heavy costs of litigation, but it is possible for bargadars who have lost their raiyati lands to collect sufficient capital to take re-settlement. He did not feel any apprehension about the extension of the barga system.

In reply to Dr. Mookerjee, he said that the Company has lands in Midnapore, Nadia, Rajshahi, Malda, Pabna, Murshidabad, Jessore, Singhbhum and Manbhum. The Company has proprietary rights, patnis, durpatnis, se-patnis and tenures, etc. The tendency to withhold rents is general and is not confined to any particular area. The reason for this is not to be found in the low prices now prevailing. Civil Courts' dilatoriness in rent suits and political propaganda are responsible. The raiyats are taking a lot out of the land but are putting nothing back. There has been little change in the Company's rate of rent since the Permanent Settlement whereas prices have greatly increased since then. He mentioned the case of some tenants who are holding at 5 or 6 annas a bigha but are in arrears of 4 years' rent. Since the Permanent Settlement the price of paddy has increased 4 or 5 times. He was definite that the fall in prices is not the reason that tenants are now withholding rents.

In reply to the Chairman, he explained that his position was that prices now are much the same as those which prevailed before the war. The rent is also practically the same. Prices went up greatly after the war and have now dropped to the pre-war level. If tenants could pay their rents regularly formerly, there is no reason why they should not do so now.

Continuing to Dr. Mookerjee, he said that the Company have a number of farms but they are purposely not managed by expensive scientific methods but on the same lines as ordinary tenants could cultivate. Improved seeds have been introduced by the Company in order to increase the outturn. He could not say off hand what is the amount of expenditure on improvements. There is no fixed sum in the budget but the Managers have a free hand with the sanction of the Directors. He could, however, give the sums[1] which have actually been spent.

[1]Figures supplied by the Company have been printed after the evidence.

In advocating adjustments of rent after 25 years, his object was not simply to get enhancements of rent: if prices have fallen after that period, a reduction of rent would be admissible. Section 38 of the Bengal Tenancy Act at present provides for reduction on this ground.

In the most recent purchase of zamindari property by the Company, the price was fixed at 18 times the net profit. Generally speaking, the rate has been 18 to 20 times the net profit. Arrears of cess are already heavy and their collection is worse than that of rent. He mentioned the case of some rent-free tenants who were unwilling to pay very small amounts of cess. He suggested that it is only reasonable for landlords to receive a percentage of their collection of cess in the same way that persons who collect income-tax get a commission on collections.

In reply to Sir F. A. Sachse, he agreed that a rebate of 5 per cent. is now given to zamindars who pay their cesses punctually but that is not the same thing as a regular commission. The landlords' loss from uncollectable cesses, and the interest on cesses paid but not promptly realised under the present dilatory laws and the heavy litigation costs result in a loss which certainly is not covered by the small rebate of 5 per cent.

Continuing to Dr. Mookerjee, he said as regards the last sentence of the reply to question 11, that accumulation of arrears of rent shows that landlords have exercised leniency towards their tenants. He did not agree that khas mahal management is cheaper than the management of the private landlords. He cited as a parallel case the fact that the Eastern Bengal Railway has been made over to private management because it is cheaper than State management.

In reply to Khan Bahadur Hashem Ali Khan, he said that the gross collection last year was Rs. 29,11,590, of which Government revenue, rents to superior interests and cess amounted to Rs. 13,03,068. He had no figure to show the percentage of revenue derived from zamindari properties, but the greater part of the Company's income is from patnis and tenures. He said it is not a fact that when the tenants are in four year's arrears, the Company only collects one year's rent and keeps the remainder in reserve. The Company presses for as much rent as it can get, but if a tenant will only pay one year's rent that is accepted in order to save him from a civil suit. The Company further encourages their tenants to keep up to date with their rents by allowing remission of interest. It is not true that any discrimination is made between good and refractory tenants. The Company has never applied for certificate powers because it knew that they would not be granted to them. Generally such powers are not granted to patnidars and tenureholders. Had the Company realised 4 years' rent at a time, public opinion would certainly have regarded that as oppressive. From 1903 to 1929,

the rate of dividend paid by the Company was 10 per cent., 1930 was 6 per cent. The total cost of administration, including collection, management, litigation, etc., last year amounts to about Rs. 10 lakhs. The annual demand last year was Rs. 22·64 lakhs. He could not say what is the comparative cost of khas mahal management. The latest purchase of zamindari property was after 1930 and took place in a Court auction sale. He did not agree that the value of the property has decreased. The Company has never defaulted in payment of revenue to Government. He thought it incorrect to say that when prices rose abnormally after the war many tenants purchased lands with borrowed money in the expectation of repaying their debts and making a profit. The number of sales has become much more extensive after the Act of 1929. It is not true to say that the indigo planters treated their tenants oppressively. Many tenants say even now that they wish indigo cultivation was still in existence. Rupees 2-5-2 is the average rent for all persons holding direct under the Company. The tenants holding under them pay two to three times the Company's rate. The reason that the condition of the cultivators is deteriorating is that raiyats are selling their lands to the highest bidders and the purchasers are rack renting the under-tenants. The amended Tenancy Act and the Bengal Agricultural Debtors Act are killing credit. He regarded the mahajans as being not an unmitigated evil. They have done much in the past to supply agricultural credit and seeds. He thought that the condition of the tenants has not materially altered for the worse and that they are not being compelled by sheer necessity to sell their lands. They are rather capitalising their free right of transfer. He mentioned that in Midnapore when the tenants were recorded as having rights in trees, they cut down valuable trees right and left simply because they had been given a saleable asset. He thought that it would be of no benefit to the tenants if the State purchases the zamindaris and tenures. The tenants in khas mahals are worse off than those in permanently settled areas. He mentioned that in the estates in Patkabari Concern in Nadia which the Company holds under Government, the rent roll is Rs. 22,000 whereas the average collection for the last four years is Rs. 16,000 and Government revenue Rs. 16,750. Collection charges amount to Rs. 3,000. These estates are thus working at a loss. In the temporarily settled estates in the same concern in Murshidabad, the rent roll is Rs. 23,000 average collection Rs. 19,000; Government revenue Rs. 20,000 and the collection expenses Rs. 3,900. He agreed that the Company need not take settlement where they hold direct under Government and said that in future they did not intend to take such unfair settlements.

In reply to Khan Bahadur A. Momin, he said that before the Company was formed its predecessors purchased land and took ijaras for the cultivation of indigo. When indigo failed, the Company started a

zamindari concern. It is a public Company. Marwaris are not the biggest shareholders. The Company's authorised capital is Rs. 125 lakhs. The price of shares has stood at over Rs. 200 per share, but the present price is Rs. 75. He did not agree that the present price being Rs. 75, ten times the net profits would be fair compensation: the Company has purchased its property at 18 to 20 times the net profit. The share value has no relation to the value of the property, because if rent collections are made easier by removing the dilatoriness of the Courts the value of the shares would considerably appreciate. The present low level of the shares is entirely due to the market having discounted the disastrous effects of the floods in the Northern Division and the drought in the Southern Division this year, and even more so on account of rent Tenancy Legislation and political propaganda, not to mention the slump conditions of the market owing to the unsettled situation in Europe. He agreed that if propaganda against the landlords and rent suits increase, it will be more difficult for the landlords to collect their rents. Zamindari management will become less profitable if propaganda increases as rent suits will increase and raiyats will become impoverished. The Company has never collected abwabs and has always discouraged them. Transfer fees have been a comparatively small item. The loss of the right of pre-emption is much more serious, because the landlord has now no control over purchasers and cannot prevent extensive purchases by non-agriculturists.

The char area in the Company's possession is all in the Northern Division, i.e., mostly in Murshidabad, Nadia, Malda and Rajshahi. In our Midnapore estates, the soil of the higher lands is less fertile than in our Northern estates. The average rate of Rs. 2-5-2 has been calculated over the whole area of the Company's property. He agreed that the high rents paid by under-raiyats is chiefly on account of higher lands not being subject to floods.

The extension of indigo cultivation was certainly for the benefit of tenants as the tenants were financed by the indigo planters and the indigo leaves and roots fertilised the soil. It is not correct to say that the construction of roads, embankments, etc., had all been carried out during the days of indigo cultivation. Improvements are still being made but the imposition of cess in the 1880's took away the landlords' incentive to construct roads. The Company has, however, constructed several roads quite recently irrespective of the District Board's help and it is still spending money on providing irrigation facilities. He did not agree that the Company has done little work of improvement as a zamindar, as distinguished from an indigo concern.

He agreed that zamindars have raised their rental mainly through the extension of cultivation. He said he was not in a position to say whether other landlords had helped tenants with capital, but thought they must have as it was a general practice in calamities. Much of

Nadia district was originally covered with water and jungle. The Company's property there extends along the river but there is also property in land. The Company had its own draft cattle and expended large sums in bringing shrub and jhow jungle under cultivation. In 1906, 50,000 to 60,000 acres of land were covered with jhow jungle. His predecessor, Mr. Crawford, brought in tenants from Faridpur and elsewhere encouraging them to clear the jungle by giving them the land rent-free for three or four years (*cf.* Settlement Final Report of 1921). The record-of-rights shows that in 1910, the fallow area was 1,900 acres, jungle 13,500 acres, and sand and water 4,000 acres; in 1929, the fallow area was 49 acres and jungle, 12 acres. The clearing of this jungle was entirely due to the industry of the Company.

He did not consider that the abolition of the Permanent Settlement would benefit the tenants. One reason is that they are not subject to revisional settlements in permanently settled areas and the average rate of rents are lower than they are in khas mahals. He did not think it would be beneficial either to the State or agriculture even if the landlords were compensated adequately and Government proceeds to spend sufficient money on agricultural improvements and maintenance of religious, scholastic, etc., institutions and grants now maintained by landlords, as improvements are and can be further improved with Government's co-operation under the present zamindari system, for he regarded development of agriculture as the main consideration. Tenancy Legislation has dealt too much with the rights of different classes of tenants and has ignored agricultural prosperity.

There is no reason why agricultural improvements should not be carried out by the Government under the present system of land tenure. If the landlords and tenureholders were bought out and certificate procedure were reintroduced, there might be a decrease in litigation, but he thought that it was problematic.

If a raiyat sublets he should become a tenureholder in respect of the area sublet, because he has ceased to be an agriculturist. An underraiyat should have facilities of buying the superior rights of his landlords up to the permanent tenureholder.

There is no pressure of population on the land in the Company's properties.

He agreed that restriction on transfer may lead to a decrease in the value of raiyati holdings, but even so he thought it would be in the interests of agriculture and consequently of the raiyats themselves to restrict transfer.

In reply to Khan Bahadur M. Hossain, he agreed that the number of uneconomic holdings is increasing. The area of an economic holding is about 5 acres. He could not give any figures to show the percentage of economic and uneconomic holdings. It would be difficult

to say if the increase in the number of uneconomic holding is one reason why tenants are finding it difficult to pay rent.

Even though restriction on transfer might lead to a decrease in the value of land still transfer may be under present conditions unavoidable because agricultural credit has largely disappeared. He did not agree that raiyats are unwilling to sell except as a last measure; at any rate, this was not true after the Amending Act of 1938. Tenants do sell their land to raise money for social requirements such as the cost of marriages and other ceremonies. During the boom period they lived at a very high standard, and now they have been forced to cut down their standard of living. Since 1938, a number of occupancy raiyats have been selling their lands because they are getting an increased price, i.e., they have not to pay the landlords' transfer fees. He mentioned a case where a tenant applied to the Company for settlement, and sold the land as soon as settlement was granted. After that he might buy more land and resell it.

The grant of occupancy right would confer no benefit on the bargadars. The result would be that they would be given a saleable right which they would sell, and this would merely lead to a vicious circle. The bargadars want the existing system. As a result of the Bengal Agricultural Debtors Act, rural credit has dried up and the mahajans are holding out. People cannot get money. Most landlords would agree to let bargadars have occupancy rights if they were untransferable. But the result under the present laws would only be that they would sell their rights. The present system is beneficial to the bargadars when drought or floods occur.

He agreed that zamindars were only given 10 per cent. collection charges at the time of Permanent Settlement. The Company's cost of collection might appear high, but like other zamindars they had covered the cost by extending cultivation; otherwise they could not have managed. Cultivation extended rapidly after the Permanent Settlement and within 40 years the country was greatly changed. A number of the Company's temporarily settled estates under the Government are working at a loss. The reason of this is that there is no appeal to the Civil Courts against unfair assessments made under Chapter X of the Bengal Tenancy Act. Such an appeal should lie from the order of the Director of Land Records.

The main criticism of Civil Court procedure is that the Courts do not follow the provisions of law which provide for speeding up the procedure. Nothing whatever has been done by the amended legislation to remove corrupt practices in the Courts.

He undertook to supply figures[1] regarding the amounts spent on improvements by the Company.

[1]Figures supplied by the Company are printed after the evidence.

Possibly there might be views contrary to the Company's view that the Permanent Settlement merely confirmed the zamindars in their proprietary rights. He mentioned that when the zamindars had power to choose chowkidars they must surely have had powers to choose tenants. As stated previously, the Company's records show that their predecessors prior to the Permanent Settlement were the proprietors.

As regards the reply to question 10, he said that if it is true that 80 per cent. of the assets are intercepted by landlords and tenure-holders, one would have expected them to be altogether safe from revenue sales, whereas in fact many estates are sold every year. He agreed that it was ruinous for the tenants to withhold their rents and to fall into arrears. If the Company were to sue every year and other zamindars followed suit, public opinion would regard such a policy as oppressive, and cost of litigation would land the tenants in greater difficulties. He thought it is better to await the result of the new legislation allowing landlords to sue for one to four years' rents.

The Company is already paying a high percentage of its assets as revenue. If a tax on agricultural income is also imposed, it would be difficult for the Company to manage and it would be an unjustifiable imposition in addition to various existing cesses. All legislation has tended to reduce the powers of the zamindars.

As regards restoring the landlord's right of pre-emption, he said that the Company in the past only exercised this right in a very few cases in order to keep out undesirable tenants.

As regards the reply to question 44, he explained that his object was not to insist on the transfer of areas which are themselves economic in size, but he would provide that if the area of any holding is less than the economic size then the whole holding must be transferred and not a portion of it.

He did not agree that the benefit arising from fluvial action should go to the tenants alone. It is equitable that it should be shared between the tenant and the landlord.

In reply to Sir Frederic Sachse, he said that the Company's collecting agents are paid between Rs. 15 and Rs. 35 in addition to "chakran" lands. Those who are paid on a higher scale have tahsils of about Rs. 20,000 and those on lower pay have tahsils between Rs. 6,000 and Rs. 8,000. There are also Inspectors above the collecting agents. He thought that the payment of abwabs would be greatly curtailed by introducing the money order system generally. The Company would not object to this, but would have greater control over its employees. He agreed it might be necessary for tenants to pay something to the post office clerks for writing out money order forms and this might be one reason why the system is not generally used. Tenants cannot rid

themselves of the idea that they derive some benefit by paying gratuities of this nature. If the money order system were introduced, it would lead to a decrease in the number of the Company's employees though it would still be necessary to have agents to supervise cultivation, etc.

The Company has only recently started applying for a special summons under section 148K. He agreed transfers to non-agriculturists have been going on from before 1928 and transferability has in the past been encouraged by the courts of law. The amendments about transferability derive their origin from the High Court reporting that transfer were taking place in large numbers. One reason why distraint was never regularly used is that it led to a number of criminal cases. Another reason is that up to about 1926, rent was paid more regularly than it is now and consequently distraint was not necessary on a large scale. If reintroduced, it might lead to riots and breaches of the peace. Another difficulty is that it can only be used at the time when the crop is on the ground, and the tenants manage to get intimation that a distraint order is on the way and cut the crops before they are fully ripe.

With reference to the reply to question 86, Sir Frederic Sachse explained that rents had been deliberately included in the awards of Debt Settlement Boards because the landlord might sell up the holding during the proceedings before the Debt Settlement Boards, and consequently there would be no security left to repay the debt. Mr. A. Somerville replied that that is no reason why landlords should be debarred from selling up a tenant who does not pay his rent. The landlords have got to pay their revenue punctually, and there is no reason why they should pay other people's debts.

In some cases Debt Settlement Boards are granting 10 to 20 years for the repayment of comparatively small sums. He was not necessarily in favour of abolishing Debt Settlement Boards, but of drastically revising their procedure and confining their operations to real agriculturists, even then this would not restore credit, which is essential.

As regards the right to minerals, he was of opinion that the Permanent Settlement granted *hak hakuk*, i.e., the rights above and below the soil, to the proprietors.

He thought it would be possible to fix fair rent with reference to the classification and productivity of different soils. He mentioned that the pargana rates were fixed on the estimated outturn, although they were probably roughly calculated. He doubted, however, whether Revenue Officers by themselves could carry out this work: it might be

possible with the assistance of the landlords. The Company's managers know what is the productivity and outturn of different areas, and the tenants have also this knowledge and will not take settlement of certain classes of land beyond certain rates of rent.

He thought, however, that such a system of fixing rents would be too expensive and not commensurate with the results obtained.

He thought that there must be some bargadars who have the necessary qualification to vote for the Assembly.

He thought it very difficult without interfering with the laws of inheritance to make any constructive suggestion for stopping fragmentation and subinfeudation. The only way of stopping subinfeudation is to have a maximum rent paid by the man at the bottom of the chain and that rent must be fixed.

Figures supplied by the Midnapore Zamindari Company, Limited.

1. Figures relating to remission of interest, rent etc., have been given, as far as possible, from 1310 (1903-04) in Bogree and Junglemehal Concerns and from 1316 (1909-10) in Sildah Concern.

2. No large donations to hospitals, schools, etc., have been made.

3. Cost of non-acquired lands for roads, leper clinics, etc., has been calculated, in most cases, at Rs. 20 per bigha.

4. Results of experiments into yield of various crops and cost of cultivation has been dealt with by Mr. Keith Smith (Statement No. 1).

5. No large sums have been spent in the establishment of hats, which although most beneficial to tenants and public alike, do not cost very much for maintenance.

6. Some 20 thousand bighas of waste lands have been leased out at low rates of rent and salami, the cultivation of which will provide employment for a large number of labourers both male and female. It is also anticipated that such cultivation will reduce soil erosion.

Southern Division—Pergunnah Sildah.

Cultivation.

1 Acre—2 bighas, 7 cottahs and 13 chattaks.

Average produce of aman paddy—2½ arrahs per bigha—6 arrahs per acre—19½ maunds per acre and straw 2 kahans 6 pauns.

Cost of cultivation per bigha—

	Rs.	A.
Seed	0	8
Ploughing	1	0
Coolies for mending ails	0	4
Cost of weeding	0	9
Cost of planting	0	6
Cost of cutting	0	8
Cost of tying	0	4
Cost of threshing	0	8
Cost of stacking straw	0	2
Manure 2 gharries	1	0
	5	1
∴ Cost of cultivation per acre	12	3

N. B.—This tallies with accounts given by several experienced cultivators of this locality.

I have been able to increase the yield of aman paddy by 2 maunds 3 seers per acre by using improved seed.

Baid paddy also has been given a considerable increase when improved seeds have been used.

Improved seed means that purchased from Government Agricultural Department and indigenous seed improved by the Company.

Sugarcane (*Coimbatore No. 213*).—Produce of gur per bigha—20 maunds.

∴ Per acre—48 maunds.

Cost of cultivation per bigha—

		Rs.	A.
Cost of first watering	...	0	10
Cost of ploughing	...	2	0
Price of cuttings	...	10	0
Cost of planting	...	0	10
Cost of watering at the time of planting	...	0	6
Cost of watering for 3 months	...	7	8
Cost of fencing	...	2	4
Cost of digging	...	3	0
Cost of tying 3 times	...	2	0
Price of manure	...	3	0
Cost of cutting and cleaning	...	2	8
Cost of boiling gur	...	1	8
Price of fuel	...	2	0
Cost of crushing	...	22	0
Cost of making shed	...	0	8
Price of gur pots	...	3	12
Coolies for making gur	...	0	8
Hire of the crushing press	...	3	0
		67	2

∴ Cost of cultivation per acre—Rs. 159-6-9.

Sugarcane cannot be cultivated extensively in Sildah Pergunnah owing to the fact that there is very little suitable land.

Babui or Saboi grass, taking cost of original planting, fencing, etc., will give an average profit of about Rs. 20 per acre, if taken over a period of say ten years, as this crop only has to be planted once in ten to fifteen years, if the fencing be kept in good condition. Babui can be grown on *dahi* land and irrigation is unnecessary. There are good prospects of this crop being even more profitable in future, as it is being used increasingly for the manufacture of paper.

Other crops which have been tried with success are bananas (fifteen varieties), papayas (five varieties) and manila hemp, but they are still in the experimental stage.

It is doubtful whether it will be a good thing to introduce the latter to the raiyats on account of the possibility of increasing malaria and other diseases if the practice of steeping in bunds and tanks is taken up extensively. This matter will have to be gone into with the Health Authorities.

Improved variety of cotton has been tried but with very little success. It is, however, still in the experimental stage. Two varieties have been tried, Punjab and American and a Waterproof variety supplied by the Agricultural Department.

Other crops such as Patna rahar and vegetables have been very successful and have been taken up extensively by the raiyats.

Improvement in the rearing of carp has been done and a Carp Farm is run at Belpahari, and *panna* are supplied to raiyats at nominal price to cover expenses.

Poultry experiments have been made and it has been found that Chittagong are the only suitable variety for introducing into the villages, as English breeds have been found not to do well on the feeding available.

For improvement of cattle a Multani-Montgomery bull is kept and has been kept since 1934. He has served over 300 cows and many of his calves can be seen in the locality now.

Statement showing the cost of improvements effected to agriculture, the amount of remission of rent, etc., etc., in Southern Division.

Name of Division.	Costs of improvements effe ted to agriculture by construction and maintenance of bunds, tanks, wells, etc.	Remission of rent.	Remission of interest on arrears of rent.	Subscription and donations to hospitals, dispensaries and religious purposes.	Value of free lands for construction of hospitals, schools and religious purposes.	Value of free lands for construction of district board, local board and village road.	Cost of construction and maintenance of hat sheds.	Total.
1	2	3	4	5	6	7	8	9
	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Southern	1,64,728 0 5	4,35,548 8 1	18,19,162 5 6	73,621 14 2	2,380 0 0	2,22,920 0 0	3,855 11 3	27,22,216 7 5

NORTHERN DIVISION.

Statement No. 1.

Calculation of the cost of cultivation and outturn of various crops.

The calculation of the cost of cultivation is per acre. The weight of a maund is 80 sicca.

The outturn shown is an average yield that can be expected under fair weather conditions from a light loamy soil generally found in the locality of the districts of Nadia, Murshidabad and Rajshahi.

(*1*) *Sugarcane* (*grown for gur*).

(*a*) Without manuring—

	Mds.
Production of gur per acre ...	45
Saleable cuttings for seed per acre ...	48

(*b*) With manuring—

	Mds.
Production of gur per acre ...	75
Saleable cuttings for seed per acre ...	48

(*a*) Without manuring all the costs of cultivation, crushing, and preparing gur per acre—

	Rs.	A.	P.
Ploughing charges per acre ...	9	0	0
Seed ...	9	0	0
Charges for sowing, fencing, ridging, earthing up, weeding, cutting ...	45	0	0
Cart hire for taking cane to crushing machine ...	3	12	0
Cart hire for taking dry leaves to crushing machine ...	3	12	0
Charges for crushing, tins, etc., and preparing gur ...	54	6	0
Rent for sugarcane crushing machine ...	6	12	0
Rent per acre (4 quarters) ...	3	1	6
	132	7	6
(*b*) With manure cost per acre ...	9	0	0
	141	7	6

(2) *Sugarcane (grown for cane only).*

(*a*) Without manuring—

	Mds.
Production of cane per acre ...	400
Saleable cuttings for seed per acre ...	48

(*b*) With manuring—

	Mds.
Production of cane per acre ...	550
Saleable cuttings for seed per acre ...	48

(*a*) Without manuring—

	Rs.	A.	P.
Ploughing charges per acre ...	9	0	0
Seed ...	9	0	0
Charges for sowing, fencing, ridging, earthing up, weeding, cutting ...	45	0	0
Rent per acre (4 quarters) ...	3	1	6
Carting cane to mill—one pice per maund per mile—say distance 5 miles ...	24	10	0
	90	11	6
(*b*) With manure cost per acre ...	9	0	0
Total ...	99	11	6

Linseed.

	Mds.
Production per acre ...	6
Saleable straw per acre ...	1¼

	Rs.	A.	P.
Ploughing and sowing charges per acre ...	3	6	0
Seed ...	3	0	0
Harvesting charges ...	2	4	0
Conveyance to threshing yard ...	0	6	0
Charges for threshing ...	1	2	0
Rent per acre (2 quarters) ...	1	8	9
Total ...	11	10	9

Oaten Hay.

		Mds.
Production per acre (30 bales of 30 seers each)	...	22½

		Rs.	A.	P.
Ploughing charges per acre	...	5	10	0
Seed	...	2	13	0
Sowing, breaking up clods, etc.	...	2	4	0
Harvesting charges	...	3	0	0
Wages of guard	...	0	12	0
Conveyance to yard	...	2	4	0
Charges for baling	...	1	11	0
Galvanized wire for baling	...	1	0	0
Rent for 2 quarters	...	1	8	9
Total	...	20	14	9

Oats.

		Mds.
Production per acre	...	15
Saleable straw	...	9

		Rs.	A.	P.
Ploughing charges per acre	...	5	10	0
Seed	...	2	13	0
Sowing, breaking up clods, etc.	...	2	4	0
Harvesting charges	...	2	4	0
Conveyance charges to yard	...	2	4	0
Wages of guard	...	0	12	0
Threshing charges	...	1	11	0
Rent for 2 quarters	...	1	8	9
Total	...	19	2	9

Mustard (sown broadcast).

				Mds.
Production per acre			...	4½
		Rs.	A.	P.
Seed	...	0	12	0
Harvesting charges	...	1	11	0
Conveyance to threshing yard and threshing charges	...	1	8	0
Rent for 2 quarters	...	1	8	9
Total	...	5	7	9

Aus paddy.

				Mds.
Production per acre			...	15
		Rs.	A.	P.
Ploughing per acre	...	5	10	0
Harrowing and sowing charges	...	2	4	0
Seed	...	3	0	0
Weeding charges	...	4	8	0
Cutting, carting to threshing floor and threshing	...	3	6	0
Rent for 2 quarters	...	1	8	9
Total	...	20	4	9

Aman paddy.

				Mds.
Production per acre			...	18
Saleable straw			...	13
		Rs.	A.	P.
Ploughing charges per acre	...	5	10	0
Seed	...	3	0	0
Harrowing and sowing charges	...	1	14	0
Weeding charges	...	3	0	0
Cutting, carting to threshing floor and threshing	...	3	6	0
Rent for four quarters	...	3	1	6
Total	...	19	15	6

Wheat.

		Mds.
Production per acre	...	9
Saleable straw	...	7

		Rs.	A.	P.
Ploughing charges per acre	...	11	4	0
Seed	...	6	0	0
Weeding charges	...	1	0	0
Cutting, carting to threshing floor and threshing charges	...	5	4	0
Rent for 4 quarters	...	3	1	6
Total	...	26	9	6

Mosuri.

		Mds.
Production per acre	...	9
Saleable straw per acre	...	6

		Rs.	A.	P.
Ploughing charges per acre	...	3	6	0
Seed	...	1	14	0
Cutting, carting to threshing floor and threshing charges	...	3	12	0
Rent for 4 quarters	...	1	8	9
Total	...	10	8	9

Barley.

		Mds.
Production per acre	...	9
Saleable straw	...	7

		Rs.	A.	P.
Ploughing charges per acre	...	4	8	0
Seed	...	2	4	0
Cutting, carting to threshing floor and threshing charges	...	5	4	0
Rent for 2 quarters	...	1	8	9
Total	...	13	8	9

Kalai (sown broadcast).

		Mds.
Production per acre	...	7½
Saleable straw	...	9

		Rs.	A.	P.
Seed charges	...	0	15	0
Sowing charges	...	0	9	0
Cutting, carting to threshing floor and threshing charges	...	5	13	0
Rent for 2 quarters	...	1	8	9
		8	13	9
If ploughed	...	2	4	0
Total	...	11	1	9

Potato.

		Mds.
Production per acre	...	90

		Rs.	A.	P.
Ploughing charges per acre	...	11	4	0
Seed	...	30	0	0
Sowing charges	...	3	6	0
Breaking up clods	...	2	4	0
Earthing up and ridging	...	4	8	0
Manuring	...	6	0	0
Irrigating	...	11	4	0
Harvesting and carting to store house	...	6	6	0
Rent for 4 quarters	...	3	1	6
Total	...	78	1	6

(1) *Jute (grown for fibre).*

				Mds.
Production per acre			...	15
		Rs.	A.	P.
Ploughing and sowing charges	...	9	0	0
Seed	...	1	8	0
Harrowing charges	...	0	12	0
Weeding charges	...	11	4	0
Thinning out	...	1	8	0
Cutting charges	...	2	13	0
Charges for bundling	...	1	2	0
Carting to steeping place	...	3	12	0
Charges for steeping and washing	...	10	14	0
Drying charges	...	1	2	0
Manuring	...	6	0	0
Rent for 2 quarters	...	1	8	9
Total	...	51	3	9

(2) *Jute (grown for seed).*

				Mds.
Production per acre seed			...	3
Saleable bad jute fibre			...	9
		Rs.	A.	P.
Ploughing and sowing charges	...	9	0	0
Seed	...	1	8	0
Harrowing charges	...	0	12	0
Weeding charges	...	11	4	0
Thinning out	...	1	8	0
Cutting charges	...	2	13	0
Charges for preparing and cleaning seed	...	2	4	0
Manuring	...	6	0	0
Price of bags for keeping seed	...	0	12	0
Rent for 4 quarters	...	3	1	6
Total	...	38	14	6

Gram.

	Mds.
Production per acre ...	9
Saleable straw ...	6

	Rs.	A.	P.
Ploughing and sowing charges ...	3	6	0
Seed ...	1	14	0
Harvesting charges ...	2	4	0
Conveyance to yard and threshing charges ...	1	8	0
Rent for 2 quarters ...	1	8	9
Total ...	*10*	*8*	*9*

Peas.

	Mds.
Production per acre ...	7½
Saleable straw ...	4

	Rs.	A.	P.
Ploughing charges ...	3	6	0
Seed ...	1	8	0
Harvesting ...	2	4	0
Conveyance to yard and threshing charges ...	1	8	0
Rent for 2 quarters ...	1	8	9
Total ...	10	2	9

Turmeric (green).

	Mds.
Production per acre ...	150

	Rs.	A.	P.
Digging and turning over soil and harrowing ...	7	8	0
Seed ...	37	8	0
Sowing charges ...	9	6	0
Harvesting charges ...	9	6	0
Rent for 4 quarters ...	3	1	6
Total ...	66	13	6

Chillis (green).

				Mds.
Production per acre—				
Green			...	30
Dried			...	7½
		Rs.	A.	P.
Ploughing charges	...	11	4	0
Seed	...	1	8	0
Planting out seedlings	...	1	11	0
Hoeing charges	...	1	14	0
Weeding charges	...	11	4	0
Harvesting charges	...	4	8	0
Rent for 4 quarters	...	3	1	6
		35	2	6
If dried—				
Drying charges	...	6	0	0
Total	...	41	2	6

Napier Grass (cattle fodder).

				Mds.
Average annual production over 5 years			...	400
		Rs.	A.	P.
Ploughing charges	...	6	12	0
Seed	...	15	0	0
Hoeing charges	...	5	10	0
Manuring for 5 years	...	45	0	0
Rent for 5 years	...	15	5	6
Total cost over 5 years	...	87	11	6
Average cost per annum	...	17	8	6

NORTHERN DIVISION.

Statement No. 2.

Showing the approximate expenditure in charity, and for the improvement of agriculture, cultivation, produce, livestocks, etc.

1. *Hospitals and dispensaries.*—Rupees 4,007 is spent annually, and besides this, Rs. 37,543 has been spent since 1900 A.D.

The lands for these institutions within the Company's properties are given rent-free.

2. *Schools.*—Rupees 875 is spent annually, and besides this, Rs. 19,780 has been spent since 1900 A.D.

The lands for these institutions within the Company's properties are given rent-free.

3. *Construction and repairs to roads, bunds, tanks, khals, wells, bridges, culverts, clearing water-hyacinth, etc.*—Rupees 25 is spent annually, and besides this, Rs. 94,178 has been spent since 1900 A.D.

The Company has supplied large quantities of building material free for these purposes.

Our predecessors, previous to 1900 A.D., spent large sums in the making and maintaining the upkeep of these above items. All the roads recorded within our "khas khatians" by the Cadastral Survey Settlement Authorities were established by the Company or its predecessors-in-interest and are within our properties for which we pay revenue or rent according to our right. Besides these khas roads, it will be found that most of the roads now controlled by the distirct and local boards were, at one time, controlled and maintained to a great extent by the landlords. In many cases such roads have passed into the hands of local bodies without the landlord getting any compensation.

I estimate the value of the roads in our khas possession, if they were acquired, at not less than Rs. 15,30,000.

4. *Hats, bazars, ghats, ferries, etc.*—Rupees 73,566 has been spent since 1900 A.D. The Company and its predecessors have established all these items within their properties and have spent large sums in establishing and maintaining them.

5. *Famine, flood, fire relief, etc.*—Rupees 87,275 has been spent since 1896 A.D.

Tenants, in times of calamity, have been given free wood and land for making bricks, bamboos and thatching grass for their houses, and allowed to graze their cattle on reserved grass lands.

6. *Donations for religious purposes.*—Rupees 406 is paid annually, and besides this, Rs. 6,374 has been spent since 1900 A.D.

Lands for these institutions within our properties are given rent-free. The building materials for several mosques and temples have been supplied by the Company and its predecessors free of charge.

7. *Other subscriptions for public purposes.*—Rupees 817 is paid annually, and besides this, Rs. 4,218 has been spent since 1900 A.D.

8. *Livestock.*—Rupees 5,440 has been spent since 1900 A.D.

The Company and its predecessors have always kept, where a Manager is stationed, pure bred or good upcountry bulls which have been used by the tenants to improve the local cattle. Stallions and upcountry buck goats have also been kept for the purpose of improving the local ponies and goats. Good breeds of fowls and eggs have been distributed amongst the tenants during recent years for the same purpose.

9. *Agriculture.*—Rupees 78,157 has been spent since 1900 A.D., by distributing various kinds of improved or good seed; by encouraging the tenants to use these improved seeds by demonstrating to them their greater productivity than the local kinds by growing them on our farms and other methods.

Up to 1906 the tenants knew nothing about jute. In 1906-07, the Company not only distributed large quantities of jute seed amongst the tenants, but engaged men from the jute growing districts to show them how to cultivate, steep, ret and prepare the raw jute for the market. Jute is now very largely grown in our districts. The Company has ever since repeatedly introduced fresh and improved jute seed for distributing amongst the tenants to improve the quality and quantity.

A kind of Coimbatore sugarcane was first introduced to the tenants by the Company in about 1929-30, which was shown by demonstration on our farms to double the cane and the quantity of gur production of the local grown cane. Large quantities of "setts" of this Coimbatore cane were distributed to the tenants and within 5 years the previous local cane was entirely ousted. Since 1935, several small and large sugar mills have been erected, which are entirely due to the Company's enterprise in introducing the Coimbatore strain of cane.

Within the last three years the Company has successfully introduced an early maturing paddy, which has become necessary in some areas on account of floods. Over 1,000 maunds have been distributed to the tenants free of interest.

The Company has done a great deal in introducing improved, good and new kinds of seed for grain crops, cattle fodder crops, green manuring crops and vegetable seeds, as well as fruit plants and trees, and have

encouraged the tenants to grow them in every way possible, such as by demonstration on our own farms, distribution of seeds, cuttings and seedlings, at cost price or even free to the tenants. The cultivation of potatoes, onions, cauliflowers, pineapples, was little, if at all, grown by our tenants a few years ago, their cultivation is now increasingly extending due to the Company's enterprise.

New kinds of ploughs have been demonstrated but with little success to date.

Our predecessors, also imported seed for improving the yield of crops.

The Company since 1906 has brought 40,000 to 50,000 acres of waste lands in jhow or other jungle under cultivation by giving the land rent-free to tenants for three years. Its predecessors brought thousands of acres too under cultivation by similar methods or by their own cultivation as they maintained large herds of draft cattle.

The Company and its predecessors have recruited and encouraged people from other districts to settle within their properties by giving them materials for building their houses, wells, etc., and the land lying in jungle or waste, on easy terms or free of rent for a period of years until the lands were in full production. Many new villages thus sprang up and many of these villages bear the names of the European and Indian employees who introduced these settlers.

The Company and its predecessors have set apart grazing fields for the tenants' cattle.

10. *Rent remitted.*—Rupees 18,98,333 has been remitted since 1909 A.D.

11. *Interest remitted.*—Rupees 42,26,240 has been remitted since 1909 A.D.

12. *Loans, interest remitted.*—Rupees 1,00,829 has been remitted since 1927 A.D.

13. *Estimated value of lands given free of rent for religious purposes, schools and other charitable institutions, graveyards, etc.*—Rupees 5,860 has been spent since 1900 A.D.

Reply by the Mymensingh Landholders' Association.

Q. 1, Part 1. Duties and obligations mentioned in this question are those which were imposed by the Permanent Settlement Regulation and the zamindars carried them out to the best of their powers. It is a mistake to suppose that the zamindars in Bengal were middlemen and mere rent collectors under the Muhammadan rule and that they were raised to the status of actual proprietors of the soil by Lord Cornwallis by the Permanent Settlement of 1793. Zamindars were not only *de facto* proprietors of land but *de facto* rulers within their estates since the dawn of history. The preserved peace and order within their estates, put down crimes, and punished offenders, decided civil suits and looked to the interest of labourers and cultivators and gave relief to them in times of scarcity and represented and maintained the royal authority. The literature and tradition of Bengal reflects to this day the position and influence which the zamindar exercised in the political and social economy of the province.

Warren Hastings deprived the zamindars of their quasi feudal powers and of their judicial and police powers. Lord Cornwallis did not restore to the zamindars their former powers but restored them to the honoured place they had held for centuries. The placing of a limit to the Government demand by the Permanent Settlement enabled the Government by the subsequent legislation (Act X of 1859, Act III of 1869 and Act VIII of 1885) to limit the demands of zamindars from raiyats. "The cultivators of Bengal are more prosperous, more resourceful, better able to tide over years of bad harvest than the cultivators of other provinces in India. The limitation of the State demand has fostered agricultural enterprise, extended cultivation." (*Vide* Mr. R. C. Dutta's open letters to Lord Curzon.)

Mr. Colebrooke in his *Husbandry of Bengal* remarks that two-thirds of Bengal were waste lands at the time of the Permanent Settlement and it had led to the accumulation of some capital in the hands of private proprietors. This capital had been fairly distributed among the intelligent and industrious of all classes, encouraged education, classical and modern, and culture among the middle classes. The zamindars also granted large tract of lands, rent free, to foster education and culture for the general well-being of society and also encouraged music and other fine arts. The zamindars as natural leaders did everything in their power for the benefit of those under their care and used to build up and maintain the social structure of Bengal at heavy expense in addition to the duties imposed upon them by the Permanent Settlement. The cordial relations which zamindars maintained with their tenants continued unabated, fed and fostered by their patriarchal authority down to the beginning of the various tenancy legislations,

which are disrupting the cordial relations and are destroying the initiative and energies of the zamindars for the improvement of society and gradually converting them into a contractual relationship. A summary of the Regulations and the various rights and duties defined therein will be supplied at the time when evidence will be taken.

Q. 1, Part 2. The Permanent Settlement Regulation did not take away any existing rights from the tenants but certain rights were conferred on certain classes of tenants. Their customary rights were vague, uncertain and indefinite. These rights were recognised and made definite and certain. The Regulation noticed that there were persons—mokraridars or istemrardars and dependent talukdars and khudkasht raiyats. Sufficient provision was made for the rights of these classes of raiyats. Then comes a provision about the "remaining lands", that is all that are not of the classes just named. These lands were to be let, under the prescribed restrictions (granting of pattas), in whatever manner the zamindars may think fit. There can be no doubt that when the zamindars were legally recognised and such persons as could show a right to hold independently of the zamindars were acknowledged, all the other cultivators became raiyats or tenants. In Bengal if we regard the entire scale of rights below the landlord, we shall find at one end of the series, the small class just alluded to and in the end of the series the real tenants, people who were cultivating the landlords' private lands or who had been located by him on lands laid waste. The Government were well aware of the indefinite relations between zamindars and raiyats, were well apprised of the uncertain nature of the rights of the cultivators of the soil, so that practically nothing effectual had been done between 1765 and 1790 to define or adjust those rights. Lord Cornwallis was sanguine that the combined effect of the limitation by the Permanent Settlement of the State demand and of the patta regulations would have the ultimate effect of adjusting the relations between the zamindars and raiyats and obviating all objections to a Permanent Settlement upon the undefined demands of the former upon the latter. In the time of the Moghul and the Muhammadan Government the share of the State was uncertain and also the share of the zamindars was uncertain. The Permanent Settlement fixed and made certain the former but the latter remained as uncertain as before. In point of law and fact the ordinary tenants can claim under the provision of Lord Cornwallis's Code on rights at all. (*Vide* Baden Powell, pages 207 and 208 and Field, page 506; Minute of Sir John Shore, p. 389.)

"That tenant right in any form was unknown in the provinces, and that the utmost confusion prevailed everywhere as to the terms on which the raiyat held his lands. (Colebrooke pp. 39, 46 and 47.)

Q. 2. The Permanent Settlement did not convey but merely recognised the pre-existing rights of the zamindars to choose his tenants or to regulate the usage of the lands to the best advantage of the lands (*vide* 51 and 56, Regulation I, 1793). Lord Cornwallis thought that it was impossible to harass the zamindars with conditions about his subordinate tenants and with vexatious interference in his dealings with them. It was supposed that the newly acknowledged landlord would extend cultivation, and thereby enlarge his own receipts; that he would improve the class of crop grown; and as differential rents were always acknowledged for richer and poorer crops, it was supposed that rentals would rise in this way. The landlord would thus become rich; on the other hand he would employ and liberally pay more and more for labour; everywhere he would be known as the benevolent landlord of a contented tenant. (*Vide* Baden-Powell, page 289.) Mr. Shore says that it was prescriptive law that the raiyats cannot change the species of cultivation without forfeiture of the rights of occupancy (Field, page 540.) As to the rights of the landlord to choose his tenants it has been discussed in the answer to question 1. Agricultural efficiency depends on a conscientious landlord and efficient tenants.

Q. 3. The landlords played a very important part in the economic development of the country. The country has prospered under the aegis of the zamindars and there is no reason to regret the Settlement. On the 20th October 1883 the Commissioner of the Burdwan division reported to the Government of Bengal as follows:—"The Bengal of to-day offers a startling contrast to the Bengal of 1793; the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement; a great portion of this increase is due to the zamindari body as a whole, and they have been very active and powerful factors in the development of this prosperity." (*Vide* Rent Commission of 1880, proceedings.) The chief defence of landlordism is that it supplies agriculture with capital at a cheap rate. "Landlords' position in agriculture is not one of privilege but of utility." Landlords are to be real leaders of the rural population. They are to bring in improved methods in agriculture and enlightenment in rural life. Cultivators must have landlords; they are poor, unorganised, illiterate. They require leadership, financial assistance and they require to be led at every step—be the landlord the State or any private landlord.

The landlords played their part well, and most efficiently; what the country expected from them they performed to the best of their powers, handicapped as they had been under the Regulations and the successive tenancy legislations.

Sir John Shore in para. 311 of his Minute observed "in the list of zamindari charges there will be found charitable donations which

ought properly to be paid by officers of Government." In this connection Regulation XXXIII of 1793 will throw much light.

Q. 4. It is absolutely incorrect to say that Permanent Settlement converted the status of the zamindars from collectors of revenue to actual proprietors of the soil. They were actual proprietors long before the Permanent Settlement. It is very easy to write that the authors of the Permanent Settlement with a few strokes of the pen, converted Muhammadan tax gatherers into landed proprietors and phrases of that sort; but they are far too summary to be accurate and just. (Baden-Powell, page 523.) During the Muhammadan times of the Hindu Rajas and zamindars had to perform all the functions of the Sovereign. They heard and decided cases, civil and criminal, and enforced obedience to their decrees and sentences in the same way as a Sovereign. They had their own law officers or pandits. The police administration was under them. In fiscal matters their authority was supreme, the interference by the Ruling Power being really few and far between. The necessary result was the practical continuation of the old Hindu system (*T. L. L. of S. Mitra* page 26.) In ancient Hindu times subletting was unknown but this state of things would not last long. Either from necessity or from indolence or from an abundance of sudra labourers sub-letting soon became common. In Thakurani Dasee *v.* Biseswar Mookherjee, Justice Campbell, afterwards Sir George Campbell, Kt. Governor of Bengal, is reported to have expressed the same opinion. Narad and Parashar had to deal copiously with question of the relationship of landlord and tenant (*Ibid*). Field shows that the landlord used to get 25 per cent. of the gross produce. Intermediate tenures also were apparently unknown in earlier days. The text books deal only with the rights of the owners of the land and the cultivators. Intermediate tenures must have come into existence at a later stage of society. In the ancient Hindu times the village headmen, lords of ten or hundred villages, by virtue of hereditary succession, assimilated to themselves the powers of influential zamindars. Powerful Chiefs or Sovereigns, to the maintenance of whose power large armies were necessary, were unable to pay them in money, for money did not exist in sufficient abundance; and so they assigned to their Generals specified tracts of territory. In course of time these Generals acquired a position and local importance and their family taking root in the locality became the germ of an aristocracy between the cultivators and the Sovereign. Similar grants were made for the support of civil officers, for the maintenance of temples and of holy men, for the reward of public services and to royal favourites. Here was another source of a class standing between the Sovereign and the cultivators. Then there were in a natural course of things many petty chiefs who had acquired a local position and influence before they came in contact with a stronger power to which they succumbed, but retained their former position to those below them. In

these and other ways there came to exist between the Sovereign and cultivators a class of aristocracy, variously known as Rajas, zamindars, talukdars and choudhuries, the exact nature of whose rights puzzled the first English administrators of the country in no slight degree. It has been erroneously said that most of the considerable zamindaris of Bengal may be traced to an origin within a century and a half (Mr. Field, page 39). Without entering into any controversies of Hastings, Grant, Shore or Francis it may safely be said that the Muhammadan epoch was famous for the development of the zamindari system. The landohlders of Bengal and Bihar submitted a memorial to the Secretary of State in the early eighties of the last century wherein they urged (*i*) that the zamindars were not a creation of the Settlement but a survival of days long before the reign of Akbar as shown by the fact that many of the oldest families could trace their origin to a period anterior to that reign and in some cases even anterior to the Muhammadan rule; (*ii*) that the established rule of the Moghul finance was that the rents belonged to the Sovereign and the lands to the zamindars; (*iii*) that the Emperors of Delhi used to purchase lands from the zamindars in recognition of their proprietory rights. Pitt's Act which was passed (24 George III, Ch. 25, s. 39) says "For settling and establishing upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which the tributes, rents and services of the Rajas, zamindars, polygars, talukdars and other native landlords should be in future rendered and paid to the United Company." The despatch of the Court of Directors, dated the 21st August 1788, declared that the zamindars had the hereditary tenure in their possession, that many of them could trace back their rights to days coeval with the conquest of Akbar and that the idea of this right had been repeatedly sanctioned in the discussion in Parliament, in the decisions of Court, and in the practice of the Government. The East India Company in 1698 obtained permission from Azim Ushan, a grandson of Aurangzeb and Subedar of Bengal, Bihar and Orissa, to purchase from the zamindars the talukdari rights of Calcutta, Sutanati and Govindapur. In 1717 the Emperor Faruqshir granted the Company permission to purchase 38 more villages, from the proprietors in the province, known as the zamindari of 24-Parganas (*vide* Field, pages 6 and 7). This shows that the East India Company itself first planted themselves in Bengal as a zamindar. The fact that malikana was paid to zamindars, etc., during the Muhammadan times and in the early British period, whose lands were made khas also shows the proprietary status of the zamindars (as for instance the maintenance to the proprietors of Hasradi Pargana of this district—*vide* Wroughton's report of the Hasradi Pargana).

In this connection the observations of their Lordships of the Privy Council (1 M.I.A., p. 305) may be interesting. In the unquiet times,

which preceded the Company's acquisition of the Dewani, arbitrary power respected neither prescriptive rights nor established usages. The management by the Company had no tendency to restore order and the Company found the whole system embarassed and confused.

Q. 5. The Permanent Settlement Regulation, Regulation 1 of 1793 says "the zamindars, etc. are to consider these orders as irrecoverable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the Administration of their affairs in this country."

This is a solemn pledge couched in unequivocal language binding on this Government. Surely no Government unless prepared to break all its treaty and other obligations and solemn undertakings given by its predecessors can treat this solemn promise as a mere scrap of paper. The Permanent Settlement was not the seeking of the zamindars but was thrust upon them by the Supreme Power at Home for its own stability and to save the Government from bankruptcy. If after 150 years any attempt is made to change the land system, that would be doing injustice to those who have invested huge amounts in land solely relying on the strength of this solemn and inviolable pledge. Looked at from this standpoint any legislation tampering with the spirit of the Regulation would be a discriminatory legislation which every State ought to avoid. Taking all things into consideration the State has not suffered but the ancient Rajas and the zamindars have suffered. The best authorities are now agreed that the adoption of the principles of the Permanent Settlement was not a mistake. The land system inaugurated by the Permanent Settlement was a scientific system and for the good of all classes of society and therefore binding on all. The Government recognised the proprietorship of the zamindar and they have continued in their enjoyment of the rights with the connivance and concurrence of the whole nation. The Permanent Settlement did not stop at declaring certain persons as proprietors. It evinced solicitude for the welfare of the raiyats and various rules were promulgated to govern leases and rents of raiyats. The State did its duty towards itself by securing its revenue, its duty to the zamindars by declaring him a proprietor, its duty to the raiyats by securing to them the State protection. So the raiyats have no complaint against the State. The pledge given in the proclamations for the protection of the raiyats has been more than redeemed by the various Regulations and successive tenancy legislation of 1859, 1869, 1885, 1928 and lastly 1938 much to the detriment of the proprietors of land and in derogation of their fundamental rights. "We are going to take back by force in 1884, a property that we forced the zamindar to buy in 1793, and so little mindful are we of the reputation for good faith in these days that a course is being boldly adopted by us that no one has ever ventured to suggest in a whisper until now." (Colebrooke, XVI.)

It was a sacred contract absolutely and irrevocably binding on the parties to it and on the country as a whole.

The Permanent Settlement did not cripple the financial resources of the country. On the other hand the heavy assessment of land revenue at the Settlement crippled the resources of the zamindars and brought about their ruin as would be evinced by the fact that more than one-third of the estates were sold away during the next 10/15 years. The method of computing the alleged huge profit of the zamindars by showing the gross rentals on one side and the Government revenue and cesses on the other is fundamentally wrong.

If the Permanent Settlement yields more profit to the landlord and to the tenants it does not mean a sacrifice on the part of the Government. The prosperity of the people is an asset to Government and if the State considers itself a loser in the shape of land revenue, that loss is more than counterbalanced by increased return in the shape of receipts under stamps, customs and income-tax.

Q. 6. From the answer to question 3 it would be patent that what was expected of the zamindars they fulfilled that expectation to the best of their abilities. Sir Richard Temple, Governor of Bengal, in his "India in 1880" says (in page 115) "The great landlords in India known by the names of zamindars, talukdars and other titles are chiefly associated in the public mind with the provinces of Bengal, Bihar, Orissa and Oudh. Some of these native gentlemen apply capital to the soil, reclaim the waste land, conciliate their tenantry and in all respects show forth a bright example." After the Permanent Settlement (Ascoli, page 74) the zamindar was faced by the immediate prospects of being liable to pay a revenue which was very heavy. Over his head was brandished the axe of sale, ready to descend and destroy him, if the smallest arrear accumulated—in 1797 estates bearing a revenue of Rs. 8,57,355 or more than two-thirds of the revenue of the district were ordered for sale in Dacca; in 1799 the arrears of revenue for the district were Rs. 1,21,047; in 1801 it was Rs. 2,08,266 and in the year 1800 the revenue of the estates put up for sale amounted to Rs. 1,48,294. This state of affairs was not particular to the district of Dacca. In fact the ancient houses of Rajshahi, Nadia, Bishnupur and Kashijurrah, were sold out during the fifteen years of the conclusion of the Permanent Settlement in 1793. The auction purchasers at these revenue sales invested their capital and they being sensible men were fully conscious of the fact that the revenue assessed on these estates purchased by them was exorbitantly high, leaving a very narrow margin of barely 10 per cent. and that they were fully conscious of the fact that the only means of augmenting their income was by extension of cultivation. The logical outcome was that they must have invested their capital in courting tenants to settle on the waste lands

by building them houses, supplying them with the implements of cultivation and seeds. In fact the extension of cultivation was the only salvation from ruin by sale. And they must have done their best in their own self-interest to extend cultivation. The original holders of estates who could save their existence from sale must have been able to do so by good management of their estates and extension of cultivation. It goes without saying that the then Government did absolutely nothing to extend cultivation and to improve agriculture. The initiative must have come from somebody and that somebody could never have been the "vagrant raiyat." We would assess 25 per cent. of the extension of cultivation to cause (*i*) namely, the increase in population, 20 per cent. to cause, (*ii*) namely, the enterprise of tenants and the remaining 55 per cent. to cause, (*iii*) namely, the initiative and the pecuniary or other assistance of zamindars. In 1770 the great famine swept away about one-third of the population of Bengal. In this famine and in subsequent famines in Bengal the zamindars rendered yeoman service to save their tenants from utter ruin. This can be gathered from the Government reports. It is idle to suppose that the extension of cultivation was due to the pressure of population since the Permanent Settlement and that Bengal was able to recoup itself in respect of population during a short period of 23 years intervening between 1770 and the Permanent Settlement and in the next few years to come. The pressure of population on land could have been heavy then and for many years after. There were more lands, less tenants and therefore the zamindars' initiative was necessary to fill the gap. We wish we could attribute to the tenants the quality of enterprise but it would be wide of the truth. According to Mr. Colebrooke the population of Bengal, Bihar and Orissa at the Settlement was about 25 millions. The average was 200 persons to the square mile. In Bengal, a little more than one acre of tilled ground for every person was the figure given by Mr. Colebrooke and to-day it is about three-fourths of an acre.

Q. 7. The increase mentioned in this question is very largely due to the industry and good management of the zamindars and in their untiring efforts for the purposes of extension of cultivation of waste lands and improvement in agriculture. This question is dealt with in the answers to questions 2, 3 and 6. The enhancement of rents is also another factor. The efforts of tenants do not count much. It is difficult to give the exact percentage of these factors. Two-thirds of this district of Mymensingh were waste at the time of the Permanent Settlement, so we must ascribe to the extensions of cultivation of waste lands about 40 per cent. of the increase, to enhancement of rent we would ascribe about 30 per cent., to the industry and good management of the zamindars, 25 per cent., and to the efforts of the tenants about 5 per cent.. Another factor has not been taken account of, namely, the

cheapening of money. As Mr. Robert Knight in his preface said in 1884 that the rental of 1793 was four crores and it ought to be 24 crores without any enhancement taking into account only the comparative money values and cultivation of waste land (*vide* Robert Knight's preface to Colebrooke's book). The increase due to increase in area of tenants' holding effected by the last district settlement is a noticeable feature. The figure of 12 crores alluded to in the question appears to be the rental of all classes of landlords and not merely of estates paying Government revenue. An accurate estimate should be made of the rental of estates only and the figure of 12 crores would after making allowances for rentals of tenureholders of all sorts, assessments on coal mines, tea plantations, forests and the rentals intercepted by raiyats, etc., would come down considerably.

Then, again, deductions will have to be made for—

(1) Interest on capital outlay incurred in acquiring all interests.

(2) Costs of collection.

(3) Costs of periodical settlements (in the district of Mymensingh the cost of the last district settlement was about 59 lakhs.)

(4) Costs for inquiries into the questions of alluvion, diluvion and deterioration of lands.

(5) Average loss for remission and abatement of revenue in bad years.

(6) Percentage of arrears in Government estates is as high if not higher as in permanently settled estates. The general rates of rentals at the time of the Settlement, varied from one-third of the gross produce to nine-sixteenths. In 1884 it was one-twentyfifth. At the present day it will be about one-sixteenth in the district of Mymensingh.

Q. 8. By the Settlement zamindars were required and expected to conduct themselves with good faith and moderation towards their tenants. This expectation has been amply fulfilled and this fact has been dealt with *in extenso* in our answer to question 1. They have not failed in any manner. The Permanent Settlement never intended to secure to the tenants "the same equity and generous treatment as they were supposed to have received from Government" but merely enjoined on them to "conduct themselves with good faith and moderation towards their dependent talukdars and raiyats".

The moderation shown by the zamindars towards their raiyats is to be considered beyond reproach if we remember that the Government showed no moderation in assessing the revenue and if we remember how the zamindars had been and are being explored and harassed to exasperation by subsequent legislations and new imposts.

Q. 9. The zamindars have improved their estates by their good management, industry and enterprise and the reply given in question 3 holds good in this respect.

They have not failed to carry out the duties imposed upon them by the Permanent Settlement; on the contrary they have fulfilled them to the best of their powers, including keeping of proper accounts and granting of rent receipts.

The charge of absenteeism cannot be brought against the zamindars and talukdars of Mymensingh. They are in close touch with their tenants and are easily accessible to them. They have shown the greatest sympathy towards the grievances of their raiyats and stood by them in their hours of trial.

The Tenancy Act has encouraged absentee landlords. They find little incentive in staying in villages by being deprived of their power to improve the lot of the peasantry.

It is not fair to characterise zamindars and talukdars living in towns as absentee landlords because the Tenancy Act has severed the cordial relations which formerly existed between the zamindars and their tenants and being human beings they have lost the incentive to do good to their tenants. They were the leaders of rural development and enlightenment. A great deal of confusion arises from the fact that we are apt to apply to present day facts, the circumstances which existed long before and fail to differentiate between cause and effect. The leadership of rural areas has fallen into unworthy hands and the result is going to be chaos and confusion and communism. "But public works of greater magnitude, such as dykes, roads, canals, reservoirs and bridges must be undertaken by the landlord for the common benefit of himself and his tenants. There has been no unusual incentive." (Colebrooke, p. 48.)

Q. 10. We venture to think that the Permanent Settlement was in the interest of the country economically and for the greatest good of the greatest number, viz., the masses, the middle classes and the zamindars.

The Permanent Settlement is economically and scientifically a sound institution. The Permanent Settlement has materially improved the economic condition of the people of this province. About 80 per cent. of the people of this province live mainly on agricultural income. Agricultural income is higher in Bengal than in other provinces. Bishop Heber in 1826 says that in Bengal "where independent of its exuberant fertility there is a Permanent Settlement, famine is unknown." Mr. Colebrooke declared in 1808 that "the reviving prosperity of the country (Bengal), its increase and rapid improvement are unquestionably due to the Permanent Settlement." In the

beginning of the 19th century, the Marquis of Wellesley, Lord Minto, the Marquis of Hastings—all were convinced of the benefits of the Permanent Settlement. The Permanent Settlement was not a boon to the zamindars and was not sought after by them but was thrust upon them. It was a necessity with the Government. The creation of a prosperous middle class, the improvement of land, and the growth of the source of income, are explicitly set forth in the Permanent Settlement. The Permanent Settlement has avoided the expenses and troubles and harassment of temporary settlement. Such assessments are in many cases found unjust and inequitable. The temporary nature of the tenure in land is a great drawback and check upon the investment of capital and labour on land. The expenditure of the Government cannot be adjusted with reference to uncertain and irregular revenue. In fact out of a revenue of 12 crores of the Bengal Government, 3·24 crores is the most certain amount. The next big item is 3·75 crores as stamp duty. This item is also an outcome of the Permanent Settlement. The zamindars having independent means are generally found to be men of public spirit and more alert to the interest of the people in this country. Mr. G. F. Edmonston, the then Lt.-Governor of the N. W F. Province, recommended the introduction of the Permanent Settlement in a Minute, dated the 27th May 1862, "Judging by the effects of settlements for long periods it may safely be anticipated that the limitation of the Government demand in perpetuity will, in much larger degree, lead to the investment of capital in the land. The wealth of the agricultural classes will increase, the prosperity of the country and the strength of the community would be augmented, and land would command a much higher price. The prospective loss which the Government will incur by relinquishing a share of the profits, arising from extended cultivation and improved productiveness, will be greatly compensated by the indirect returns, which would be derived from the increased wealth and prosperity of the country at large."

The opinions of the other officials of Government also support the same view. Mr. R. C. Dutt, one of the greatest Indian Economists, advocated the Permanent Settlement. The Indian National Congress, by resolutions advocating the Permanent Settlement, blessed the Permanent Settlement in unequivocal terms. Until the advent of socialism from abroad the whole body of public opinion in India was eloquent in its praises for the Permanent Settlement.

The Permanent Settlement has not resulted in the advantage of the landlords at the expense of the tenants. Raiyats in Bengal pay a lower rate of rent and are better off than the raiyats of many of the other provinces in India. In Bengal it is not true to say that the raiyats in temporarily settled estates and in the khas mahals are better off than

those in the permanently settled estates. In fact they are there much worse off. The raiyats in provinces under raiyatwari settlements are distinctly worse off. So the tenants ought in all fairness to bless and not curse the Permanent Settlement. It is futile and jejune to argue that the present day condition of the agricultural classes of Bengal can be ascribed to the Permanent Settlement. Any stick is good enough to beat the Permanent Settlement and the zamindar. Sir Richard Temple, the Lt.-Governor of Bengal, writes in 1880—"the landed system in Bengal has become the mainstay of the national stability and a foundation of popular content."

There is no reason why the zamindars should be singled out and other owners of unearned wealth should be left out.

The tenancy legislations have all been at the expense of the zamindars and nowadays zamindars are more to be pitied and protected. One of the chief delusions under which the Rent Bill was brought forward in 1880, was the belief that the zamindar had so heavily enhanced the rents which the cultivator was paying, that they were out of all proportion to the rates that were being levied at the time of the Settlement. (Colebrooke, VII.)

Now with this exact information in our hand, we are no longer in doubt as to the weight of the present rentals, compared with those that were exacted at the time when the Settlement was made.

Esimate the rental however, at what we may, it is sufficiently clear from the change which has since taken place in the value of money alone, we must multiply that rental four times over—16 crores of rupees—to make it represent a rental of equal pressure to-day. (Colebrooke, VIII and IX.)

With this essay of Mr. Colebrooke's in our hand, the fact becomes as clear as the noonday sun, that the zamindar has so apathetically and carelessly, or else so timidly, asserted his rights, that he has allowed his rents to fall almost to nothing.

A rental of 4 crores in 1793 would represent 24 crores to-day, from the mere increase in area under cultivation, and the change in the value of money.

Q. 11. The Permanent Settlement cannot be assailed on any of the grounds mentioned in the question. Part (*i*) of the question is not very clear. Obviously 80 per cent. of the income from land cannot go to the zamindars as what the landlords in this district receive from their tenants is certainly not more than 8 per cent. of the money value of the produce (vide Mymensingh Gazetteer by Sir F. A. Sachse). In our estimate the figure is still lower, that is, about 6 per cent. of the gross produce. Evidently it is intended to mean 80 per cent. of the

rents from land. Here again the figure 80 per cent. contradicts the figures given in question 7. Be that as it may, besides the revenue which the landlords pay to the Government, they have to bear the additional burden of the various taxes payable to the Government and rates. The tax at the time of the Permanent Settlement was so heavy and the rules adopted for realising it so paralysing that most of the Rajas and zamindars of Bengal, who had the Permanent Settlement thrust upon them, succumbed in the course of three years.

(*ii*) Subinfeudation existed from before the Permanent Settlement (vide Patni Regulation, Preamble) and the Regulation fixed the rents of these taluks and tenures. In this district subinfeudation in the form of tenures after the Permanent Settlement is not very appreciable. The Bengal Tenancy Act has given rise to another form of subinfeudation amongst the raiyats, and the actual tillers of the soil have been placed at the mercy of the superior raiyats. The peasantry of Bengal are in the grip of petty landlords, superior raiyats. They form the petty bourgeois and their movement is directed against the zamindars on the pretext of doing good to the cultivators. Wherever the system of an intermediate tenantry subsists, the peasant is indigent and the husbandry ill managed.

(*iii*) We shall show later on that the Permanent Settlement and other Regulations contemplated enhancement of rents of raiyats. It is neither immoral nor inequitable and is in accordance with the practice and custom prevailing in the countries of Europe. So the Permanent Settlement cannot be assailed on this ground.

(*iv*) If the question suggests the overlordship of superior raiyats over actual tillers, we have no quarrel as has been suggested in the previous answer.

In the district of Mymensingh the average rates of rent paid by raiyats at fixed rents, by occupancy and non-occupancy raiyats and by under-raiyats are respectively Re. 1-14, Rs. 2-12 and Rs. 5 per acre (vide Settlement Report by Sir F. A. Sachse). The rates of rent prevailing in Government estates are not always lower.

The present day zamindars, shorn of all their former powers and privileges, are not what may be styled as "overlords" nor can they be styled "burdensome". Low rentals are the parent of two very serious evils; they lead either to the most careless husbandry, as was remarked by Arthur Young in his famous Tour, or inevitably beget the practice of subletting. (Colebrooke, XIII.)

Q. 12. From the answer to the previous questions it would be patent that we do not advocate the abolition of the Permanent Settlement on any ground whatsoever. The grounds are without substance and are not based on sound assumptions.

Q. 13. We do not agree with the suggestion contained in the question that the Permanent Settlement involves a loss to the State. We have tried to show in our previous answers that the apparent loss of a few crores is more fancied than real. In this connection we would quote the weighty pronouncement of His Excellency Lord Willingdon, speaking of the Permanent Settlement, "a statutory arrangement sanctioned by the lapse of years and inextricably bound up with economical condition and judicial practice. I am also informed that it is very doubtful whether the abolition of the Permanent Settlement would be of any great advantage even financially to any Government" (vide His Excellency's reply to the deputation headed by the Maharajadhiraj Bahadur of Burdwan).

(i) and *(ii)* We have already adverted to this topic in our previous answers.

(iii) It is not clear whether this agricultural income-tax would be in lieu of Government revenue, cesses and taxes and other rates at present payable by the landlords. If this agricultural tax means an additional taxation, it must be styled as a discriminatory taxation. In any case we are opposed on principle to the imposition of an agricultural income-tax on land. The Permanent Settlement Regulation limited the demand on land by declaring the public assessment upon land as irrevocable and not liable to alteration.

The augmentation of public demand by taxing profits on land in the shape of agricultural income-tax cannot be justified in the permanently settled province of Bengal. We would consider it as a violation of that solemn pledge.

The question of temporary settlements was mooted and negatived (vide Sir John Shore's Minute, pp. 154 to 164). It is not profitable to go over the old grounds and to re-open a controversy long silenced.

Q. 14. We do not advocate *(i)* or *(ii)*. The abolition of the Permanent Settlement cannot be justified either in law or in equity. But if the Government by its supreme might, as opposed to right, forces the abolition upon the country, it would be an ex-proprietary measure or rather political expediency. As being an ex-proprietary measure the landlords can legitimately claim compensation for the extinction of their long established rights. The principle of taxing the landlords out of their existence without abolishing the Permanent Settlement is reprehensible. Compensation for ex-proprietary measures has always been given in all ages and in all countries. Even the outgoing Hapsburg family in Austria got compensation for their confiscated lands. Germany, Czechoslovakia, Denmark, Holland and lastly England have given compensation to outgoing landlords.

In calculating the measure of compensation to the zamindars the principles laid down in the Land Acquisition Act should be followed. Roughly speaking we will estimate that a sum of Rupees 300 crores will be necessary for the purpose. Compensation should be preferably in cash.

Q. 15. In view of our answer to question 14, this question does not arise. If the sanctity of the Permanent Settlement could thus be assailed by the present Government, where is the guarantee that the bonds now given will be worth the paper on which they are written?

Q. 16. The nationalisation of zamindaris is being advocated on the ground that it would bring a substantial profit to the Government. The socialist principle that prompts the advocacy of such readjustment of the social and economic structures is obviously borrowed from the West but the nationalisation of land would be of no advantage to the raiyat. The customary rate of rent is bound to give place to competitive rent. If the State ownership of land is associated with all the disabilities and disadvantages under which the landlords now suffer, the Government could not fare better at the hand of the raiyats. They would invite their wrath and curses and these irritation and friction may in no time lead to agrarian revolution against the Government. The magnitude and the minuteness of the task of estimating the amount of compensation should deter anybody from any attempt at tampering with the Permanent Settlement. With the loss of leadership of the landlord in rural life, there would be chaos and confusion. The confidence and sense of security in the State would be gone and everything will be left as indefinite and uncertain. No society can prosper under such indefinite and uncertain conditions. Russian ideals have obtained scant recognition in Europe and there is no reason why it should be encouraged in Bengal.

Q. 17. If the Government is going to purchase the rights of the zamindars, the logical conclusion would be that the Government should also purchase the interest of all tenureholders. The question of advantage or disadvantage does not arise.

The Government should reach the actual cultivators eliminating the middlemen raiyats.

Q. 18. A huge additional machinery would be required to carry on the administration under the changed conditions. There would be no personal touch, as now exists, between the zamindar or talukdar and the raiyat and the administration would be more expensive. It is difficult to give an estimate of the cost. But from the report of Taxation Enquiry Committee it would be apparent that the cost of collection will eat up a large proportion of the expected profit. Besides the heavy costs of periodical settlements and heavy establishment will have to be

maintained for giving effect to the various provisions of the Bengal Tenancy Act, such as alluvion, diluvion, deterioration, splitting up, subletting, etc.

Q. 19. The raiyats would never prefer to come direct under Government.

The khas mahal raiyats and raiyats in temporarily settled estates are worse off than raiyats in permanently settled estates. The harassment of the raiyats in khas mahals would prompt any raiyat in that area to cry—"God save us from khas mahals." In spite of the amendments of the Bengal Tenancy Act of 1928 or 1938, the tenants in Government khas mahals are under greater disabilities. Government is the worst landlord. The zeal of the revenue officers proves a curse to the tenants. Even during the depression, the rents have been enhanced in many cases. No private landlord would have ever dreamt of enhancing rents during the depression. The difficulties in the way of realisation of unenhanced rents are formidable and zamindars would welcome any suggestions which may mitigate these difficulties. The rates of rents there are not very low. The welfare of the zamindars is bound up with the welfare of the raiyats.

Q. 20. As regards the first part of the question our answer can be gathered from the reply given to question 11; like zamindars the permanent tenureholders helped in the economic and social development of the provinces.

The familiar intercourse between the petty tenureholders and the cultivators has a beneficial effect on the cultivator economically and socially.

Q. 21. The answer to this question can be gathered from the replies given to question 16. The effect would be similar to State purchase of zamindari rights.

Discontent and unrest will be more widespread. The lot of the masses will remain the same as no part of the surplus will go to him but to the State. There will be thrown out of employment a body of about 56 lakhs of tenureholders who will join the ranks of communists and there will be chaos and anarchy in which all vested interests will be thrown into the melting pot.

Q. 22. Their homestead and khas lands should remain undisturbed in their possession. Even in the Mughal times the zamindars who were deprived of their estates were allowed to retain their homestead, khas lands, nankar, nijjote and chakrans and khamars and this practice was uniformly followed in the early British days. Actual possession should be the criterion. All nankar, chakran, nijjote, whether in khas possession by own cultivation or in cultivation by barga, should be included.

Q. 23. The occupancy right is a creature of the Act X of 1859. In the Great Rent Case 1865, Sir Barnes Peacock opined, "it cannot be doubted that Act X did to some extent encroach upon the rights of the landowner when it created a new right of occupancy". Again he says, "I need not point out the extent of injury which a zamindar would sustain if throughout his whole zamindari, every raiyat, with a right of occupancy is to be converted into a part proprietor with an interest equal to, if not greater than the zamindar himself". Excepting the khudkasht raiyat existing from before the Permanent Settlement, all other raiyats were declared by the Regulation I to be tenants at will.

Q. 24. We do not subscribe to the view raised in the question. The earliest records do not show them to be the actual proprietors of the soil. Whatever rights the cultivators of the soil might have in prehistoric times, were lost in oblivion during the later stages and progress of society. During the later Hindu times no such rights existed because of the growth of a powerful and influential class of landed aristocracy known as dasa, gramik, etc., between the Sovereign and the cultivator. This State of things continued during the Muhammadan times and was accepted by the early British administrators as will appear from our answer to question 4. In view of the foregoing remarks this question does not arise.

Q. 25. We are not in favour of maintaining and extending this principle and allowing the occupancy right to more than one grade of tenants, namely, the occupancy raiyats whose rights have been recognised by the Act of 1885. The growth of under-raiyats in neither desirable nor conducive to the economic welfare of the province.

Q. 26. In view of our answer to the previous question this question does not arise.

Q. 27. What was the intention of the Permanent Settlement as regards non-agriculturist is difficult to say but the word "raiyat" is used there. The controversy raging in the Punjab over the non-agriculturist clauses in the Punjab Land Alienation Act, is going to be introduced here but we would be no parties to it.

It is very hard to distinguish between an agriculturist and a non-agriculturist in our parts of the country. The Bengal Agricultural Debtors Act is finding its practical application difficult. All raiyats under the Bengal Tenancy Act are entitled to the protection given by the Act. The Bengal Tenancy Act makes no distinction between agriculturist or non-agriculturist raiyats. The Act is confined to the user of the land, whether for agricultural and horticultural purposes or not.

Q. 28. There is no reason why the statutory rights intended to protect the interests of cultivators should persist in land which has been

converted to use for non-agricultural purposes. The statutory rights given by the Bengal Tenancy Act can only apply to agricultural and horticultural lands under the Act.

As regards the question of levying any additional tax for such converted holdings, the landlords are already paying an extra levy in the shape of income-tax and cesses. So it would not be fair and equitable to saddle the landlords with any additional tax. The tenants making such conversions may be required to pay an additional tax. It may be in the form of an income-tax or we may follow Regulation XV of 1810 (rescinded by Regulation VII of 1812).

Q. 29. Yes, the number of bargadars, etc., is on the increase. The reasons are given in the answers to question 30.

Q. 30. (*i*) The amending Act of 1929 has not given the bargadars any statutory right, because the bargadars are not tenants but only hired labourers who get generally a half of the produce of the land in lieu of labour. So, no right should be given to them.

(*ii*) Yes, the facilities have increased the number of bargadars but there is no remedy. The indiscriminate right of transfer given by the Bengal Tenancy Acts of 1929 and 1938 have crippled landlords, and it has produced a body of landless labourers. In 1921 the proportion of landless labourers in this district was about 291 per thousand. In 1931 it was 407 and in 1937 it cannot be less than 600 per thousand.

(*iii*) It is true that the raiyats have sold lands since the economic depression which set in from 1929 and that also is a result of the indiscriminate power of sale given by those Acts.

The cry should now be for restricting powers of alienation instead of giving so called "rights" to projas by granting them unlimited powers of transfer for reasons of party politics.

Q. 31. It is very difficult to make a guess but as far as we have been able to gather approximately a bargadar holds about 3 acres in this district which he is able to cultivate with one plough. The majority of bargadars in this district generally hold small lands as raiyats or under-raiyats but the lands being insufficient they take to barga to supplement their income. The number includes also some landless labourers.

Q. 32. We are not for giving rights of occupancy to bargadars. Honesty and industry are guarantee against eviction. Practically they are in a better position than the raiyats and there are many bargadars who continue from year to year because they fulfil their duties and obligations honestly and faithfully.

If a bargadar can claim a permanent right, the labourer in a mill can also claim a share in the mill.

Q. 33. Produce-sharing bargadars are common in the United States, in France and in other parts on the Continent. They are also common in Canada. They are scarcely found in England. The system is economically sound as otherwise large body of persons would be thrown out of employment. The landlords in many cases supply cattle, plough, seeds and manure and they get a half share. In Italy, France and Spain this 'matayage' form of tenancy is even now popular. It is preferable to the cash rent tenancy, is more economical, and more equitable. In times of depression it acts as a blessing and in times of prosperity there is no injustice. The bargadars are mostly enjoying their lands for generations though their tenure is only yearly. The modern tendency in Europe is for demanding security of tenure. It is popular in Australia and the United States. In Italy about one-third of the land are on barga system.

Q. 34. The effect of giving occupancy rights to bargadars would be disastrous.

A large number of people will be thrown out of employment, adding to the list of landless labourers.

There are many poor persons whose livelihood depends solely on the produce of their few bighas of land.

If occupancy rights are once given, the next step would be commutation of produce rent into money rent and determination of fair and equitable rent by applying the village rates. Surely we cannot rob Peter to pay Paul.

The bigger persons will keep their lands in khas possession and have them cultivated by paid labour. It is a notorious fact that now-a-days it has become extremely difficult to realise rents from the tenants. No sane person would like to create any more tenants in derogation of their rights. It would be a fallacy to suppose that the present bargadars will find employment as hired labourers. Their present status will be adversely affected and they will not get the same amount of profit as hired labourers as they are getting now as bargadars.

Q. 35. Bargadars in this district generally get a half share of the produce. This custom is of long growth and so it is better to leave the share to be adjusted by custom and by the laws of supply and demand. Legislation will bring in complications.

Q. 36. In this district agricultural labourers generally get 5 annas per diem without food and 3 annas with food. The labourers do not get employment throughout the year. Bargadars and under-raiyats are better off than agricultural labourers because the former have a greater income having in addition their barga lands to fall back upon and being possessors of land they have a higher status in society.

Q. 37. Yes, as will appear from our previous answer to question 30. Obviously the further facility given by the Act of 1938 has increased this tendency.

Yes, it would be prejudicial to the interest of the cultivating raiyats. We are not in favour of giving unrestricted right of transfer to cultivating raiyats—either to agriculturist or to others; but when once the right is given it is not either practicable or feasible to restrict such transfer to an agriculturist.

We venture to suggest that the unrestricted right of transfer given by these Acts should be taken away. Unrestricted right of transfer was a move in the wrong direction and against the interest of the raiyat. Apart from constant preachings against the zamindars and the rousing of passions against them, calm and cool consideration should be given to this question.

Q. 38. In our opinion, in this district, the size of a holding to maintain a cultivator's family of about five persons should be about five acres in the case of double or treble cropped lands and eight acres in the case of one cropped lands. We suppose that this quantity of land can maintain the family of an average cultivator reasonably with a surplus for bad years.

Q. 39. It is a fact that many raiyati holdings are uneconomic. The causes mentioned in the question have made them still more uneconomic.

Q. 40. In our opinion consolidation of holdings is desirable and is practicable if cultivation on co-operative basis is adopted.

A further fragmentation may be checked if in the division of a holding under the Tenancy Act, the minimum limit of rent is raised to about Rs. 25. The laws of inheritance and also the unrestricted right of transfer should be modified but whether it is practicable is a larger question.

Q. 41. It is not practicable to give the facilities mentioned in the question. The laws of inheritance and the unrestricted right of transfer will lead to fragmentation after consolidation.

Q. 42. We are not in favour of restricting the quantity of land in one particular hand. But as we have said before, there must be a check upon subinfeudation by the bigger cultivators. As an abstract principle unequal distribution of wealth is not desirable. This is a socialist theory and as such it has no place in society in Bengal. If the Government is willing to undertake levelling up inequalities in all spheres then the whole framework of the constitution of the Government will have to be changed.

Q. 43. Coparcenary is a necessary evil and cannot be stopped without interference with the laws of inheritance and this interference is not practical politics.

Q. 44. Does not arise in view of our answer to the previous question.

Q. 45. The present provision in the Bengal Tenancy Act, sections 93 to 99, to compel joint realisation by the appointment of a common manager by the District Judge, is sufficient to give the remedy suggested in this question. But these remedies are rarely resorted to. A larger use of these provisions is likely to cure this evil. It would be better to devise easier methods of partition and exchange.

Q. 46. The statistics given in this question do not appear to be very accurate. However as the answer to this question may be given independent of the statistics, we are of opinion that the Permanent Settlement empowered the landlord to enhance the rates of rent payable by the tenants. "The zamindar is ignorantly denounced as rack renting the tillers of the soil by an exaction of less than half the amount." (Colebrooke, XIV.)

The Permanent Settlement Regulation made restrictions on the enhancement of rents of tenures of dependent talukdars, istemradars, mokararidars and khudkasht raiyats. Then comes a provision about the "remaining lands" that are not of the classes just named. These lands are to be let under the prescribed restrictions namely, granting of pattas, in whatever manner the zamindar may think fit. Had the framers of the Permanent Settlement any intention that the rents of the ordinary raiyats shall not be enhanced they would have declared that in express terms which they never did. But there was a restriction imposed on the other side. Zamindars were forbidden from granting pattas for more than 10 years (Baden-Powell, pages 628-30 and Regulation XLIV of 1793). It obviously contemplated a periodic increase of rents which might be foregone for 10 years but not for more, or it has no meaning. There can be no doubt that when the zamindars were legally recognised and such persons as could show a right to hold independently of the zamindars were acknowledged, all other cultivators became raiyats or tenants-at-will and inevitably in the minds of the English officers, and in the law courts this suggested an enhancement of the rent of the tenants and to eject them if they would not pay. The subsequent Regulations leave all rents to be enhanced at discretion up to the Act XII of 1841. Then came the Rent Law of 1859 which also provided for an enhancement of rent under conditions similar to those which are to be found in the Tenancy Laws of 1885 and 1928. The acquisition by the Company of Calcutta, Sutanati and Gobindapur contained a clause for enhancement of rents (*vide* Regulation XLIV of 1793).

Q. 47. We emphatically deny that the framers of the Permanent Settlement when they made the Government revenue permanent and unalterable contemplated similar permanency and fixity of the rates of rent either in the case of tenants then existing or in the case of tenants who might subsequently be introduced on the land. We have indicated some of the grounds for this view in our previous answers, specially in our answer to question 46. "Tenant rights in any form were unknown in the provinces, and that the utmost *confusion* prevailed everywhere, as to the terms on which the raiyat held his lands. That the zamindar it was who fixed the rental, that he did so annually with due regard to seasons".

Q. 48. (*a*) The terms of the Permanent Settlement contemplated enhancement of rent of those ordinary tenancies which existed at the Permanent Settlement.

(*b*) Other Regulations also contemplate such enhancements.

(*c*) The various Tenancy Acts and declarations of authorities also contemplate such enhancements.

(*d*) Section 50 of the Bengal Tenancy Act also supports enhancements of rents of those raiyats whose tenancy originated after the Permanent Settlement. Section 6 applies to tenureholders only.

(*e*) By Article VII of Regulation I of 1793, the zamindars were declared empowered to "enjoy exclusively" the improvements due to increase of rents of raiyats whether by enhancement of rents or by extension of cultivation.

Q. 49. As regards the first part of the question, in view of what we have said before, it does not arise.

There are no sufficient materials available as regards the second part of the question, for determining what those rates were, and for distinguishing those tenants who are successors in interest of tenants existing at the Permanent Settlement and those who have taken settlement subsequently. There are very few tenancies of occupancy raiyats in this district which can be traced back to more than fifty or sixty years. As the raiyats have no grievances on this score, we do not propose to suggest any remedy. "To legislate as we are now attempting to do, upon the assumption that the raiyat is rack rented, is to act upon the grossest delusion a legislative body ever entertained. Every public interest demands that the zamindar should have proper legal facilities given to him for enhancing rents moderately, and in fair proportion to the rise in the value of the land, and its production." (Colebrooke XIV.)

Q. 50. It was never the intention that rents should remain unalterable. If we are told to go back to the days of the Permanent

Settlement then the undue privileges given to the raiyats by successive tenancy legislations should be withdrawn and the *status quo ante* should be restored. But is it practicable and will satisfy the agitators?

Q. 51. It was never the intention of the framers of the Permanent Settlement to restrict the landlords to any rates whatsoever and they were "to let their remaining land" in whatever manner they may think fit.

"Parganas rates used formerly to be the prevailing rate" but pargana rates were declared by the legislature more than half a century ago to have become uncertain. (Field, page 79, and Colebrook's Minute of 1812.)

In comparing the rates at the time of the Permanent Settlement (if found) we must take into consideration the purchasing power of the rupee.

Q. 52. It is very difficult to lay down any hard and fast rule for the determination of fair and equitable rent as profit varies from land to land and so should rent. It is very difficult again to determine a rate of rent which can apply to a whole district, much less a rate of rent which can apply to a whole province, as the market value of produce varies from locality to locality and from district to district. In the draft Rent Bill prepared by the Bengal Rent Law Commission of 1880, the highest rent exigible from an occupancy raiyat was limited to one-fourth of the average annual value of the gross produce. (Field, page 50.) In the District Gazetteer of Mymensingh, Sir F. A. Sachse, at page 101, says "what the landlords receive from their tenants is certainly not more than 8 per cent. of the money value of the produce". The same writer at page 64 of the same book says, "It will be obvious therefore that the raiyats' rent proper is one of the least important factors in his budget".

Q. 53. It is very difficult to say on what principle the rent in Bengal is based. So many factors have combined together, such as custom, productivity, competition and lastly legislation, to bring about the present state of rent, that it is very difficult to apportion the share of each. We think the present rent is very much akin to lump rent. In this district, as we have said before, rents vary greatly. The coustomary rent as amended by legislation is recognised in the Bengal Tenancy Act. We think the prevailing rate in that Act is the customary rate.

Q. 54. (*i*) We think that the poorer and the weaker tenants get concessions. It would not be accurate to say that the poorer and weaker raiyats pay, in this district, a higher rent;

(*ii*) We have already suggested that legislation is the factor besides those mentioned in question 53.

Q. 55. The readjustment of rent as suggested in the question is not possible only by the removal of zamindars and middlemen. No adjustment is possible, for instance, in the present khas mahals. If it is at all feasible to readjust rents on a uniform basis, we would recommend that the State should purchase also the raiyats' holdings and create economic holdings on a population basis, suited to the best interests of the country.

No, it is not possible without a new record-of-rights.

Q. 56. If a definite share of the produce is to be recommended we would venture to suggest it to be one-sixth share of the gross produce as it prevailed in the ancient Hindu times.

Q. 57. We are not for fixing rent in perpetuity but it should be alterable according to the money value of the produce or the other causes enumerated in the tenancy laws.

Any additional burden of taxation besides the revenue will fall harshly on the landlords and also on the tenants. In the Bengal Tenancy Act the time limit is 15 years and this is equitable.

Q. 58. We are strongly opposed to the substitution of an income-tax in place of rent, which is neither practicable nor feasible.

The result contemplated in the question will naturally follow.

Annual inquiries for purposes of assessment of income-tax will be highly expensive and harassing to all parties and will lead to corruption and malpractices.

Q. 59. We consider that the principles and procedure for enhancing and fixing fair and equitable rent under the Bengal Tenancy Act have not been defective. As the right of enhancement is hedged round with so many conditions favourable to the raiyats they cannot be deemed unfair.

Q. 60. A fluvial action improves the fertility of the soil and the landlord is the proprietor and he should get at least a share of it. In case of deterioration the tenants get reduction and in case of improvement the landlords should get increased rents. Cases of enhancement on the ground of fluvial action are not frequent.

Q. 61. We do not object to the principle and we are in favour of the existing provisions for enhancement due to rise in prices.

Q. 62. As the present rents are not fixed on the productivity of soil alone no question of making an allowance for the consumption of the cultivators can arise.

The principle enunciated in this question is not sound and will lead to absurd results. The rent of a raiyat with a family of three members and possessing five acres may on this principle be enhanced but the holding of a raiyat of 50 acres with a family of 60 members should not be enhanced.

Q. 63. If there were provisions in the law for reduction of rent on the ground of prevailing rate, nobody would object on principle to this ground of enhancement. Sufficient consideration cannot be given to improvement effected long ago at the raiyats' own expense because by lapse of time the means of determining the effects of these improvements under the restrictions imposed by the Bengal Tenancy Act render it impossible of application in practice and incapable of proof.

By no stretch of imagination salami can be called advance rent. Salami is the fine or premium or compensation paid for the extinction of the landlord's right in land in part or in other words, circumscription of the absolute ownership of the landlord by the partial statutory rights of the tenants, created by the settlement of the land to them. It is undeniable that the landlord would get more profit from it if kept in khas than if it is let to tenants. (*Vide* 13 W.R. p. 307, ss. 77 and 82 of the Bengal Tenancy Act.)

Q. 64. The sanctity of contract should always be respected. New settlements are made for khas lands of the landlord in limitation of his own rights of absolute ownership and no restrictions should be placed on the landlord's power of settlement on any rent or in any way he pleases nor is it wise to give a handle to the tenant to avoid the contract and to whittle down its terms. Competition rents are in vogue in England. Competition rent enhances the value of land. The rule of supply and demand should be the rule.

Q. 65. The procedure laid down in the Bengal Tenancy Act, Chapter X, for settlement of rent cannot be styled fundamentally defective. There is a difference between Part II and Part III. Part II may be amended and brought in line with Part III. Part II is applicable to temporarily settled estates and the working of this part has been entrusted to Settlement Officers who generally have an eye upon enhancement of rents and in some cases the vagaries of the Revenue Department operate harshly on the tenants in the temporarily settled estates. In the case of permanently settled estates the passport to promotion of Revenue Officers is the bias for the tenants and a bias against the zamindar.

Q. 66. We do not know of any such cases as mentioned in this question and so the remaining part of the question does not arise.

Q. 67. It is not correct to say that revisional settlements are made with the primary object of enhancing revenue in temporarily settled estates. But owing to the zeal of the Revenue Officers and as an incentive to the chances of promotion the practical effect in many cases is enhancement of revenue in khas mahals and temporarily settled estates.

Q. 68. We do not know of any particular permanently settled estate where the enhancement was obviously unfair.

Q. 69. Revisional settlement in temporarily settled estates is rendered necessary by the expiry of the term of settlement. Frequent settlements are a source of irritation and harassment to the tenants. The period of settlement may be increased. We are not in favour of the policy of enhancing rents in Government lands during depression. But as a matter of fact in this district rents in temporarily settled estates have been enhanced even during times of depression much to the detriment of the tenants. They have a legitimate grievance against this policy.

Revisional settlement in permanently settled estates should not be frequent as both landlords and tenants have to bear the costs and the recovery of the costs in years of depression operates harshly.

The tenants can have no grievance on the ground of enhancement as they can take advantage of the fall in prices and get reduction.

Q. 70. In our opinion rates of rent for similar lands in different districts and in khas mahals vary considerably owing to an absence of settled and uniform policy in determining rents. The question of the adoption of a uniform and a settled policy for all places is not free from difficulty, as rents vary from locality to locality and district to district.

Q. 71. We do not know of any case where such remission of revenue has been given in bad years. These rules are followed more in their breach than in their observance owing to bureaucratic methods. The rules may be simplified and the Collectors may be given wider powers.

Q. 72. The statistics supplied by the Land Revenue Commission do not appear to us to be very accurate. Annual Report on the Survey and Settlement operations in Bengal, 1936, at page 30 says for Mymensingh "average outturn per acre is equal to 22 maunds of aman, 18 maunds aus, 16 maunds of jute". In 1926-27 the price of jute rose to Rs. 27 per maund and the average yield per acre was about Rs. 225 per acre and the average selling price of land was about Rs. 600 per acre.

In Mymensingh more than one-third of the culturable lands are double cropped. In our estimate the average outturn per acre of a double cropped land in this district yielding jute and aman or aus and aman is as follows:

Jute—16 maunds per acre.

Aus—18 maunds per acre.

Aman—20 maunds per acre.

The average prices this year are—

Jute—Rs. 5 per maund.

Aus—Rs. 1-12 per maund.

Aman—Rs. 2 per maund.

The average yield of straw per acre is four maunds for aus and four maunds for aman and the average selling price is eight annas per maund.

In this district the average cost of production is for jute per acre Rs. 35, for aus Rs. 18, and for aman Rs. 17 and for sugarcane, for the first year Rs. 100, and for the next three years Rs. 50 per acre. So the average cost is Rs. 60 per acre while the average yield per acre of sugarcane is 600 maunds.

In this district of Mymensingh rent is not more than 6 to 8 per cent. of the gross produce.

Q. 73. Yes, the reasons are—

(*a*) want of manuring, and

(*b*) unscientific cultivaton.

The Government has taken practically no steps to improve the fertility of soil. The Government agricultural farms have got to show their utility. Nothing has practically been done in the distribution of manure and improved seeds. There is no record to show that from the Permanent Settlement up till now the Government has taken any effective steps to improve agriculture.

Q. 74. These Acts show their existence only on the statute book. They are of no practical utility. What the cultivators want is not legislation but money to improve agriculture and thereby to augment the means of their livelihood.

Q. 75. We are not aware of any sum of money spent in this district for the improvement of agriculture in khas mahals.

Q. 76. So far as our information goes salami is realised by Government at the time of settlement of new lands in khas mahals. This

practice is of long standing and we are not aware that any portion of it is applied to improvement of agriculture. (*Vide* Khas Mahal Report, 1938, by Mr. M. M. Stuart, I.C.S., Special Officer.)

Q. 77. The Government has done next to nothing to improve the condition of the raiyats. In every civilised country the Government is spending large sums to improve the production of wealth, and one of the primary source of the wealth of an agricultural country is the produce from land. The policy of the Government is not to spend anything to improve agriculture and thereby increase the wealth of Bengal on the ground of want of funds. If there is the will, funds would be forthcoming.

However we have no quarrel over this policy, for what cannot be cured must be endured.

The Permanent Settlement is the proverbial black sheep on whose shoulders all the ills that Bengal is heir to, are laid. We are noticing particularly nowadays a class of public men in Bengal who have been declaring at the top of their voice that let the Permanent Settlement go out of the picture and immediately a millennium will set in.

To them we have no answer to make. In our opinion they are seeing things with their eyes shut. Is it true that the raiyats in Madras under the raiyatwari settlement are rolling in wealth whereas their brother in Bengal is starving?

These public men are not looking ahead.

A glance at the *Calcutta Gazettes* of 1876 to 1884 and the reports of the Collectors of various districts contained therein will bear us out when we say that the peasantry in Bengal in 1881 was happier and more contented than the peasantry of today. We may argue that the Bengal Tenancy Act has inaugurated a new era which received aggravation in the Act of 1929, the logical corollary of which is the present day miserable plight of the peasantry.

The peasantry clamour for means of maintenance; they are being given "rights" by legislation and the public men sleep in complacence.

We say once again that the unrestricted right of transfer given to tenants is responsible for the fragmentation of holdings and thereby rendering them uneconomic from which the tenant can hardly get his "Dal bhat".

Jute is the pride and monopoly of Bengal. Unrestricted production and devaluation in the price of jute are proving a curse.

The production must be raised and the price of agricultural commodities must be enhanced.

Then this cry for abolition of Permanent Settlement will disappear and the problems of tenants' rents will be solved. Unless and until this is done it is no good to cry hoarse over the Permanent Settlement and the so-called inequitable character or amount of tenants' "rents".

The tenancy legislations are exproprietary enactments and are bringing ruin on the landlords and the cheapening of the rights of transfer are ruining the tenants. The Bengal Agricultural Debtors Act is going on merrily to destroy rural credit and what is still worse, the Government is yielding easily to the clamour of politicians who are out to exploit masses not with an eye to any benefit to the tenants but for purposes of self-aggrandisement.

This policy is broadcasting ruin and chaos all round.

Q. 78. According to the provincial Banking Enquiry Committee Report, for a family consisting of five members, the average income per family is Rs. 406 from agriculture and Rs. 44 from subsidiary occupations. Thus the total income a year of a family of the cultivating class is Rs. 450. And the Committee has estimated the average annual expenditure of the same sort of family as Rs. 420.

In the district of Mymensingh we would assess the average income of a cultivator from agriculture per acre per year with an average holding—

		Rs.
Of 3 acres	...	250
From other sources	...	50
		300

About 90 per cent. of the raiyats in the district can maintain themselves and their family from the income.

Q. 79. The suggested remedies do not appear to be feasible. It would be very expensive and disproportionate to the results anticipated.

Q. 80. We agree with the methods suggested in the question with the exception of (*v*). Cattle worth Rs. 5 cannot be insured.

We would suggest further—

(1) Fixation of a minimum price for jute.

(2) Creation of economic holdings.

(3) Prevention of subdivision of holdings.

(4) Railway freight concessions in respect of agricultural commodities.

Q. 81. We agree with the view expressed in the question. According to authorities agriculture can maintain 250 persons per square mile.

The mean density of population in this district is about 760 per square mile.

Theoretically speaking therefore 510 persons per square mile is the surplus.

But as we have said before about 90 per cent. of the cultivators can be maintained on income from lands.

Q. 82. We agree with the view expressed in the question. Cottage industries should also be encouraged.

Q. 83. Agricultural credit is gone. The Bengal Agricultural Debtors Act has destroyed all rural credit. There are no effective organisations, Government or private, which can restore agricultural credit. Every newspaper, every public body from various platforms has castigated this bad Act but without much effect. For fear of repetition we refrain from putting forward our arguments against this Act. This Act is a political stunt and is broadcasting ruin with a free hand alike to tenants and to landlords.

Q. 84. Whatever might have been the state of affairs 20 or 25 years back, it is now a notorious fact that mahajans are not getting a single pice either as capital or as interest.

Q. 85. Certainly not. Co-operative credit societies have hopelessly failed in tackling the credit problem of the agriculturists. The present rate of interest is not high but formerly it was so. The co-operative credit societies have not benefited the agriculturists.

We cannot give the exact percentage.

Q. 86. The Debt Settlement Boards have destroyed rural credit. Administration of justice has come to a standstill. Their constitution is such that they cannot command the confidence of the people. They are usurping the functions of the Civil Court and are deciding intricate questions of civil law, without education, without training, without any sense of justice and without any desire to do justice. They are an unmitigated evil and have become a byword of reproach. Their dilatory methods of disposal, deferring decisions and payments for an indefinite period, are ruining both creditors and debtors. Landlords specially have a legitimate grievance against these Boards. Various defects and remedies have been suggested by various local bodies and from various platforms, but without any appreciable effect. The Bengal Agricultural Debtors' Act should go, lock, stock and barrel. It is discrediting justice which is the foundation of the British Empire.

Q. 87. We wholeheartedly agree to this suggestion. But the banks should be run on business principles and should not be benevolent charitable institutions. Certificate powers should be given to these banks so as to facilitate punctual payments.

Q. 88. The Land Mortgage Banks have failed hopelessly. The funds at their disposal are totally insufficient for the need and they have not the guarantee of the Government for either capital or interest. Their methods are complicated and dilatory.

Q. 89. It is a notorious fact that at present the landlords are not getting their dues with the result of heavy accumulation of arrears of rent which are bringing them on to the verge of bankruptcy. The cry nowadays is that tenants should stop payments of rents and this will obviate the necessity of abolishing the Permanent Settlement. Agitators are teaching and encouraging evasions to tenants to fulfil their obligations, and thereby teaching the country to be dishonest. With the sword of sunset law hanging over their heads, the landlords must be, in all fairness, equipped with greater facilities for the speedy realisation of rent which are their just dues. The powers of distraint and eviction for non-payment are no longer in force. These powers are in force in England and other civilised countries. We would welcome the extension of the astam procedure as in the case of patni sales to occupancy holdings.

Corruption in Civil Courts should be put down at once with a high hand and dilatory methods should be remedied. Every public interest demands that the zamindar should have proper legal facilities given to him for recovering his rents as summarily as we make him pay the assessments upon him. (Colebrooke, XIV.)

Q. 90. We do not think that the recovery of rents through the Public Demands Recovery Act is harassing and objectionable.

We have suggested the remedies in our previous question. "The Certificate Procedure is not harassing to the tenants but is unpopular because it is efficient" (Mr. Stuart's Report).

Q. 91. We are not in favour of repealing the old Regulations and earlier Acts. We are overburdened with indiscriminate legislations. Frequent changes of the law and piecemeal legislation are engendering feeling of insecurity and disturbing the relations based on contract. People do not know where they stand.

Q. 92. The Revenue Sale Law operates harshly on landlords. A provision similar to Order 21, Rule 89 of the Civil Procedure Code may be introduced in the Sale Laws and a grace of 60 days may be granted after sale. Tenure may be protected if not collusive and fraudulent.

The question is too comprehensive and cannot be answered in the time limit fixed by the Commission, and this applies to many questions.

Q. 93. Landlords all over Bengal are losing 40 lakhs of rupees a year due to this Amendment. This is operating very harshly on the impoverished and harassed landlords. It being an expropriatary measure the status of the landlords has been called in question. It is a class legislation. It has conferred no real benefit upon the tenants. They have got "rights" but no bread. On the contrary, the unrestricted and indiscriminate power of transfer given by this Act will produce a huge body of landless labourers which will drag down body-economic of society and who knows it may not lead to revolution. The salutary check by pre-emption on indiscriminate transfers and the controlling power of it over land values have been done away with. The further evil effects on tenants have been fully dealt with in question 37.

"We may conceal the fact from ourselves, if we choose to do so, but no honest man can view this legislation (Act VIII of 1885, a hundred times more so with regard to the Act of 1938), but as a cancellation of the Permanent Settlement, in the midst of profuse assurances that we do not dream of doing so. The wisest course would be to make some arrangements with the zamindar for the open abandonment of the Settlement. What is not to be endured, is the highhanded repudiation and concealment of the engagement under pretences of respecting it and of merely adjusting the relations of the zamindar with his raiyats. The legislation is confiscation pure and simple as the zamindar protests it to be." The Act of 1938 attempts fifty times too much. It is an attempt to construct a new set of relations, customs and rights altogether. It abolishes wholesale, what the people wish to retain, and forces upon them regulations, that they will never conform to, but under compulsion. What wise legislature ever moves in this rash way in advance of the people?

Oral evidence of the Mymensingh Landholders' Association on 9th March 1939.

PRESENT ON BEHALF OF THE ASSOCIATION.

(1) Maharaja Sashi Kanta Acharyya Chaudhuri, M.L.A.

(2) Mr. Jnanendra Nath Lahiri, B.L.

(3) Mr. Jitendra Kishore Acharyya Chaudhuri.

(4) Mr. Surendra Nath Sen.

(5) Mr. Mahini Chandra Roy.

In reply to the Chairman, the Maharaja of Mymensingh agreed that as a result of subinfeudation holdings tend to become uneconomic. Subinfeudation however is not the result of the Permanent Settlement. The cultivators' present economic difficulties are

due to subinfeudation in the lower grades, i.e., subinfeudation by the petty bourgoisie who have obtained many rights by tenancy legislation.

As regards the reply to question 25, he said that to stop subinfeudation, he would take away the right of an occupancy raiyat if he sublets. He thought there was no harm in giving occupancy rights to under-raiyats but pointed out that under the present law, they do not acquire occupancy rights until they have been in possession for twelve years. If land is sublet by a raiyat, he was in favour of taking away the occupancy right from the whole holding.

Explaining his position that tenancy legislation has done harm to both landlords and tenants, he said that the free right of transfer and unrestricted use of land for non-agricultural purposes under the amended Bengal Tenancy Act has affected the tenants adversely. Rent is the least important factor in the tenant's budget. Another reason is that the Civil Court procedure is slow and cumbrous. Even when a decree has been obtained, only symbolical possession is given. Section 148 has not led to any noticeable expedition of Civil Court cases. The tenants must be taught to pay their dues promptly. This is only reasonable when one considers the sanctity attaching to the payment of Government revenue. He maintained that the tenants were happier in 1880, before the Tenancy Act was introduced. Their rent was realised more regularly and they did not fall into such large arrears. He agreed that Government should do more to develop agriculture. The Government farms are too experimental and not sufficiently demonstrative. He was in favour of a Government programme and would be willing to bear his fair share of the cost, provided he gets a share of the profits, but he thought that landlords would not agree to collect any additional tax. The landlords are already burdened with the collection of road cess and education cess in Mymensingh.

In reply to Maharajadhiraja Bahadur of Burdwan, he agreed that if a landlord has land in several districts and resides in one, he could not be considered an absentee in the other districts. Tenancy legislation has cut off the good relationship between landlords and tenants and the tenants no longer approach their landlords, as they used to do, for advice and help. Landlords used to advise their tenants regarding the cultivation of more valuable crops, but nowadays they are not even able to choose their own tenants. The tenants also can deposit their rent in Court. The result has been that the landlords have lost a great deal of their interest in the welfare of the tenants.

As regards the reply to question 11, he explained that 8 per cent. of the gross income from the land goes to the landlords and tenure-holders and the balance goes to the raiyats. He opposed subletting

on the ground that it tends to make holdings uneconomic. He explained that the figure of 300 crores as the estimated cost of buying out landlords and tenureholders was based on land acquisition rates, i.e., 20 times the net profit *plus* 15 per cent. statutory allowance. He agreed that in case of State purchase, Government must acquire all rights above the raiyat. Each estate would have to be assessed to compensation on its own merits. Where the revenue is low, the value would be higher and *vice versa.* Minerals would have to be separately acquired. His estimate of 300 crores was for the acquisition of surface land only. He agreed that State purchase would break up the social and economical life of the province and ruin the middle classes.

As regards bargadars, he was not in favour of giving them occupancy rights even though they may have occupancy rights in their own holdings. Many bargadars continue cultivating some land from year to year and even for generations without occupancy rights. Nobody wants to evict good bargadars and occupancy rights are not necessary for them.

He thought that 90 per cent. of the raiyats in Mymensingh can maintain themselves, though not very comfortably, on a holding of 3 acres. 5 acres would maintain them in a reasonable degree of comfort and leave some margin. It is true that what is now an economic holding might, as a result of the laws of inheritance, become uneconomic within a generation. He was in favour however of one co-sharer holding the land and the others merely getting a share of the produce.

In reply to the Chairman, he explained that he was in favour of the "preferred heir", i.e., the remaining co-sharers would get their share but would have no connection with the land.

In reply to Dr. Mookerji, he said that he was in favour of allowing no fragmentation below a rental of Rs. 25. Sir F. A. Sachse pointed out that if this were adopted, very few holdings would be affected as the rent of the great majority is already below Rs. 25.

Continuing to Maharajadhiraja Bahadur, he said that he would advocate something similar to the astam procedure for landlords in rent suits against tenants, because of the great delays in Civil Court procedure. He would allow tenants one month to pay up, as in astam sales, and the landlords would be entitled to sue for arrears of one year's rent. As regards corruption in the Civil Courts, to which reference has been made in the reply, he mentioned that in the United Provinces, a Committee has been set up to enquire into this subject. As regards the conversion of land for non-agricultural purposes, he gave as an example the use of agricultural land for cutting

earth for brick manufacture. When the earth cutting can no longer continue, the land becomes waste. Either it has to be filled up at great expense or the tenant cannot pay his rent. The land then becomes khas and the landlord is left with the waste land.

In reply to the Chairman, he said that in his view, there should be some penalty on a tenant who uses agricultural land in this way.

In reply to Sir Frederic Sachse, he said that in 1928 the landlords opposed the right of transfer mainly on the grounds that the tenants did not possess this right at the Permanent Settlement and that the landlords would lose all connection with their tenants. Sir F. A. Sachse asked whether landlords have also objected on the ground that free transfer would be bad for the tenants themselves. The Maharaja replied that they had also objected on that ground. He said that in many cases landlords had actually used their *veto* prior to 1928 in order to keep out undesirable tenants. They had also exercised the right of pre-emption after 1928. He admitted that in Mymensingh thousands of tenants were in possession of land for 25 or 30 years before they applied for recognition by paying salami. The landlords dealt with such cases when they were found but they had no power to deal with part-purchases. He did not quite agree that the purchasers were known to the landlords and that they paid their rents marfatwari for the former tenants. Sir F. A. Sachse suggested that the proposal to give occupancy rights to cultivating under-raiyats was hardly consistent with the reply to question 25, that the growth of under-raiyats is undesirable and pointed out that subletting has already proceeded to such an extent that it is too late now to stop it. The Maharaja replied that at present the under-raiyats have not got economic holdings. The main idea was to give them such holdings. He thought it was not too late to stop subletting. He agreed that persons who lost their holdings have only their homesteads and some barga lands, but he considered that the barga system is for the good of the country,—even though the former tenants are paying half the crop instead of Rs. 2 or Rs. 3 per acre. He said that the Rent Law Commission of 1878 originated the trouble between landlords and tenants; previously their relations had been cordial, but after that the landlords gradually lost their incentive to look after their tenants' welfare. That however is not a reason why the revenue system should be changed. Government legislation has created the trouble, and the landlords cannot be penalised for it. He would not suggest that all legal rights should be removed from raiyats in order to restore the previous cordial relations, but said that the landlords must have some hold over their tenants, e.g., choice of tenants and control over transfers. He agreed that the Act of 1885 restricted leases to under-raiyats to 9 years and in 1928 occupancy rights were given to certain

under-raiyats because the restriction on sub-leases was never observed in practice. He suggested that subinfeudation should be restricted by limiting the rights of raiyats, by fixing the area of economic holdings, and re-establishing the right of landlords to choose their tenants. Tenants rarely pay their rent by money order. In his own estate, the tahsildars have had to go to the tenants for the last 20 years to collect rent. One reason why landlords formerly disliked the money order system is that the money orders contained mis-statements. He did not agree that rents are credited to arrears which are time barred. In his own estate all such arrears had been written off in 1342 B.S. He agreed that tenants often pay something to tahsildars to stop rent suits. If they are in arrears of 4 years, they may pay two years' rent and give the tahsildar something to prevent a suit for the remaining two years' rent. He agreed that the Civil Courts tend to sympathise with the tenants and are often too generous in granting instalments and other advantages. If instalments had been granted for 15 years in any case, he thought it must have been an exception. He favoured the restoration of distraint in theory, but thought that the tenants would object strongly as rights given should not be taken away. He had no information, based on old accounts showing the share of the crop received, to indicate that the fertility of the soil is decreasing.

In reply to Dr. R. K. Mookerjee, he said that since 1928 the tenants have paid nothing towards their debts. The present economic difficulties of the cultivators are not due to the land system. They are due firstly to fragmentation, secondly to speculation in land which has led them into debt, and thirdly to the fall in prices. Their rent is a minor consideration because it is so low. When the price of jute was at its highest level, the tenants' debts were the greatest. This shows that they were speculating in land. It is not a fact that enhancements of rent were made during the boom period.

In reply to Chairman, he explained that prices are now very much the same as they were before the war in 1912-16. The Settlement Department fixed some rents under section 105 between 1906 and 1912 but thereafter there has been no settlement of rent in the permanently settled area.

Continuing to Dr. R. K. Mookerjee, he said that the price of paddy was Rs. 2 before the war and is now almost the same.

Formerly the landlords had a duty towards their tenants in matter like education, but nowadays the relations with their tenants are purely legal and contractual. The landlords are not bound to do anything for their tenants in this respect, but would co-operate with

Government in any scheme. Government has done nothing for agricultural development, whereas in England large sums have been spent. [The Chairman said that Parliament had placed 20 million pounds at the disposal of Government for this object.] Landlords have no responsibility for marketing. Marketing however is desirable and it is bad for the tenants when prices fluctuate widely, e.g., the price of jute has gone up from Rs. 4 to Rs. 8. It would be difficult for landlords to collect rents in kind instead of in cash. They would have to establish golas in every village. There would also have to be some method of assessing the landlords' share of the crops in accordance with the fluctuations in its money value. This would be very difficult to work.

According to statistics the number of rent receivers in Bengal is about 22 lakhs and in Mymensingh district it is about 2 lakhs.

If the State purchased the zamindaris and tenures, there is no doubt whatever that stamp receipts would decrease heavily: instead of an income of 3·75 crores the income would be ·75 crores.

Explaining the quotation from Colebrooke in the reply to question 10, he said that the change of money value must be taken into account in considering the present level of rent. The value to-day is about four times what it was about the time of the Permanent Settlement.

Tenants would certainly prefer to remain under the zamindars rather than to come under the khas mahals. In Mymensingh Government has enhanced rents in about 22 khas mahal estates during the depression.

The rent payable for double-cropped land is not much different from that payable for single-cropped land nowadays. The value of the gross produce from double-cropped land is about Rs. 120 per acre.

In reply to Khan Bahadur Hashem Ali Khan, the Maharaja of Mymensingh said that the total cost of management of his estate including collection costs and litigation charges, is about 30 per cent. The cost of khas mahal management is said to be 15 per cent., but he thought that including law charges it would be much more. It is not a fact that landlords used to demand nazarana when tenants appeared before them. Donations were never realised in his estate when marriages took place. There is no begar system in his estate or in the districts. It is not true that tenants do not come to their landlords because abwabs are collected. In his own estate the tenants still come to see him. He agreed that Government have spent little

money on education, medical facilities and sanitation but said that the landlords have spent much on the same objects.

He agreed that Lord Curzon had not accepted Mr. R. C. Dutt's statement that the Permanent Settlement has led to great prosperity in Bengal, and greater ability to resist famines, but he did not agree with the Government of India's view. He did not agree that the share paid in Hindu and Moghul times by the cultivators was for the protection given by the State: that system existed only in the earliest times. As society developed, landlordism grew up. Khan Bahadur Hashem Ali Khan quoted from the Tagore Law lectures by Justice S. C. Mitter, pages 24 and 28, to show that the sovereign received the share for protecting the subjects and that the raiyats were proprietors of the soil subject to the payment of rent and that their rent was fixed. The Maharaja of Mymensingh did not agree with this view as the subsequent development of the reply will show, and said that Todar Mal's settlement was not given effect to in Bengal.

The profits of zamindars are obviously larger now than at the time of the Permanent Settlement but the tenants' profits are also greater. It has also to be considered that landlords have been deprived of part of their income by the abolition of transfer fees and the imposition of education cess. Police duties were taken away from the zamindars before the Permanent Settlement.

He explained that in the reply to question 9 when it is stated that the leadership of rural areas has fallen into undesirable hands, he referred to socialists, who are a class of educated landless people having no stake in the country. He did not agree that the tenants would be better off under Government. The tenants under khas mahals are now under a so-called national Government but they have gained nothing over the tenants in permanently settled areas. As an example he mentioned the case of a temporarily settled estate where the revenue has been enhanced periodically from Rs. 22 in 1852 to Rs. 832 recently, although the estate produces only boro paddy in 75 per cent. of the area, and the remainder is fallow. He did not agree that the amount of education cess in Mymensingh is insufficient provided that too great a portion is not spent on supervision charges. Government will get Rs. 16 lakhs from Mymensingh district and that should go a long way to provide for education. The Gauripore estate has given Rs. 58 lakhs in the last 48 years to charity, and the Mymensingh estate has given Rs. 42 lakhs in 45 years. He did not agree that it would be better for the State to take over and expend such sums. He mentioned that before education cess was imposed, the number of schools and pathsalas was greater than it is now. More

than 100 years ago, Mr. Hodgson in his controversy with Macaulay regarding the educational policy in Bengal had mentioned that there were 100,000 schools which were maintained entirely by the zamindars. Zamindars also made contributions to hospitals and charitable dispensaries. In 1897 such charitable donations by zamindars amounted to Rs. 97 lakhs.

The landlords formerly had a margin of profit from which they could spend money on such objects but now they are not even getting their rent. It is not correct to say that before 1928 the landlords did not receive substantial amounts in transfer fees.

Khan Bahadur M. Hossain compared the figures on pages 88 and 95 showing the value of the produce per acre, and suggested that if the area under jute in Mymensingh is 34 per cent. of the whole, then the net profit from jute and paddy on 3 acres should be Rs. 133-8. It was stated in reply that the figures represented the gross profits from the produce, and that the cost of cultivation had not been deducted. The average size of holdings in Mymensingh is about 3 acres. It is not correct however to say that the uneconomic size of the holdings is the reason why tenants find it difficult to pay their rents. If this was so, more of them would have taken to labour. Until three or four years no cultivator in Mymensingh could be induced to cut earth; they considered it beneath their dignity. He agreed that some cultivators are now migrating to Assam. It is true that tenants get the lowest price for their produce at the harvest time and have to wait for better prices, but by that time they have already spent too much and hence failed to pay their rent regularly. There have been very few civil suits over the share of crops from barga land, but the number is increasing. The number of such suits is necessarily small because the bargadar who does not pay his share would certainly be changed. It may be true that Government has insufficient funds for the development of agriculture but the landlords are in the same predicament. Their profit nowadays may be many times greater than what it was at the time of the Permanent Settlement but it must be remembered that much of it goes to the intermediaries. He suggested that economic conditions may be improved by raising the price of agricultural produce and increasing the yield. He thought it would be very difficult however to make economic holdings, unless there were some arrangements for other professions and for the surplus population to migrate. He did not agree that the immediate cause of the tenancy legislation of 1885 was riots in Pabna district. In Moghul times the tenants paid a share of the crop as bargadars do now; but the cases are different, because in Moghul times the tenants had some rights whereas the bargadars to-day have none. He did not agree that

one class of bargadars finances agriculture. The landlords generally pay for the seed. It is not correct either that the bargadar takes all the risks of cultivation. His labour may be lost if there is a failure of crops but he has to pay nothing. Bargadars naturally own plough and cattle, as cultivation is their means of livelihood, and they get a share of the crop in return. He had compared bargadars to mill labourers because just as the mill labourers do not bear any expense of running the mills, similarly bargadars bear no expenses of cultivation. Transfer cannot be restricted to agriculturists but he was in favour of restricting the transfer of holdings below an economic size, as he had recommended in his memorandum.

In reply to the Secretary he explained that if a holding is below the economic size he did not mean that it could not be transferred, but that a part transfer should not be allowed and the whole holding should be transferred.

In reply to Khan Bahadur A. Momin he explained his statement that the Permanent Settlement was carried out on a scientific method was based upon the authority of Baden-Powell. At the time of the Permanent Settlement the country was in a very unsettled state.

He said that there is an annual influx of up-country labour into Mymensingh district because the raiyats think it beneath their dignity to do manual labour. The raiyats are now gradually learning that this is wrong.

He agreed that the profits of the landlords have increased along with the increase in money value but this is the same with the tenants also. He contended that in terms of money value there has been no increase of rent since the Permanent Settlement, and that considering the amount of rent paid at the Permanent Settlement rents should be enhanced. But he considered it justifiable that the landlords should not pay more than their present revenue because the assessment was very high at the Permanent Settlement, and cesses have subsequently been unjustifiably imposed. Proportionately the tenants' cess is not so high as the landlords'. He agreed that the question of future increases in the value of money was not considered at the Permanent Settlement, but he thought that consideration should be given to the landlords in view of their high assessment. Landlords now pay income-tax on *hats* (bazars), sairats and forest areas. Both landlords and tenants pay cess but the landlords pay on their gross income, whereas the tenants pay on their rent.

The following reasons have tended to decrease the interest which landlords used to take in the welfare of their tenants:—

Firstly, landlords can only sue at intervals of 9 months whereas they have to pay their own revenue regularly every kist. The rate of

interest on arrears of rents has been decreased so low that the tenants do not pay their rent in kists, but can use the money more profitably for other purposes.

Secondly, if the landlords effect an improvement they cannot under the amended Act obtain an enhancement.

Thirdly, landlords cannot choose their tenants and this has tended to cut off the connection between them.

He agreed that the position of landlords is becoming increasingly difficult and that agitation is hampering collection. The tendency to demand reduction of rent is also increasing. It is certainly the duty of Government to improve the present situation and remove the difficulties of both landlords and tenants. It might be considered advantageous to abolish the present system but it depends on how it is abolished. If landlords are bought out tenureholders must also be bought out and Calcutta property would also have to go. Zamindari property used to be very valuable in Mymensingh and could be sold for 30 to 35 times the net profit. Nowadays there are no sales and buyers will not come forward because their position would not be secure. He could not suggest any definite rate of compensation without further consideration but thought that each case would have to be considered on its own merits.

In reply to Mr. B. K. Roy Choudhury, he agreed that all tenancy legislation has not been of real benefit to the tenants. The tenants' rights are now even better than those of zamindars. Rent-free raiyats are not better off than rent-paying raiyats—in fact they are worse off. A tenant who has paid no rent for 7 or 8 years is equally badly off. Peasant proprietorship would not solve the present agricultural difficulties. The principal needs are intensive cultivation and agricultural credit. If the landlords and tenureholders are removed, that would be nothing to solve the problem of pressure on the land.

He agreed that the disappearance of cottage industries has thrown an increasing number of people on to the land. Cottage industries should be revived in preference to the establishment of big industries. After the Permanent Settlement many zamindaris changed hands owing to the high assessment of revenue and during the following 50 or 60 years the zamindars got little profit from their estates. He was in favour of giving the astam procedure to landlords for one year's arrears of rent: that would help in realising the arrears of previous years. He was also in favour of transferring the collection of cess to union boards.

A tax on agricultural income would be a breach of the Permanent Settlement and he thought that the landlords could not bear further taxation. To tax them out of existence would be more reprehensible than abolishing the Permanent Settlement. He agreed that the abolition of the Permanent Settlement would destroy the middle classes.

In reply to the Secretary, he said that his figures in reply to question 72 giving the cost of cultivation include the estimated cost of the tenants' labour.

He said that the effect of the present enquiries under section 112 in Mymensingh has been that the tenants are withholding rents in the expectation that rents will be reduced.

Reply by the Nadia Landholders' Association.

Q. 1. There is no use discussing whether the description is exhaustive or not, suffice it to say that the zamindars have spent a good deal of their income for the benefit of the tenants and the public at large, though there was no such obligation on their part. The Permanent Settlement did not take away any existing rights from the tenants; as a matter of fact they had practically no rights whatsoever.

Q. 2. The right of a zamindar to choose his tenant existed from before the Permanent Settlement. Permanent Settlement recognised the right of the proprietors in the soil. Moreover justice demands that the zamindar should have the power to choose his tenants, because he is ultimately responsible for paying the Government revenue. A similar argument also applies in the case of regulating the usage of land.

Q. 3. It is no exaggeration to state that the major part of the economic development of the country since the Permanent Settlement is due to the part played by the landlords. It is true that some of the zamindars, of late, have not been able to perform their functions as well as before, but it is not their fault for the economic and social conditions of the country have changed to such an extent that it is no longer possible for the zamindars to act as before.

Q. 4. The zamindars had been the real proprietors of the soil even before the Permanent Settlement and they were only recognised as proprietors by the Permanent Settlement. They were not mere collectors of revenue. Much has been the controversy regarding this point; but the fact that Lord Cornwallis made the Settlement with a certain number of persons and not with others, goes to prove our contention.

Q. 5. Abolition of Permanent Settlement would certainly be breach of a solemn pledge. On the other hand, the question of tenants not being parties to it does not arise as they had practically no major obligations. Financial resources of the country were certainly not crippled, on the other hand it placed the financial position of the country on a sounder basis. Since the Permanent Settlement the zamindars and the subordinate landholders have been taxed in many ways which have augmented the revenue of the Estate. The zamindars have been spending a good deal for the good of the country.

Q. 6. All the three factors are responsible for the large increase in the area brought under cultivation since the Permanent Settlement, but it may be said without fear of contradiction that the initiative of the zamindars had played the most important part in the earlier days.

Q. 7. The increase is due mainly to the good management of the zamindars as also to the reclamation of waste lands by the tenants with

the help of the zamindars. The enhancement of rent has, if at all, played a very insignificant part in the matter.

Q. 8. Compared to the treatment to the zamindars by the Government, the zamindars have certainly treated the tenants better.

Q. 9. As already said, a large number of estates have been considerably improved through the industry, enterprise and good management of zamindars. It is true that there has been some amount of absenteeism at the present time and consequently the former close touch between the zamindars and tenants has been lost to some extent; but this is not the fault of the zamindars alone. It is due to the spirit of the time over which they have no control.

Q. 10. In so far as the carrying on Governmental work requires money, which was not available to the Government without the help of the zamindars, during the early part of the British rule in India, it can certainly be said that the Permanent Settlement was in the interest of the country. There was certainly no advantage gained by the landlords at the expense of the tenants. If advantage was reaped by anyone it was by the Government.

Q. 11. (*i*) This is not true inasmuch as the figure is exaggerated. Moreover, a large part of the income of the zamindars is distributed to others.

(*ii*) Subinfeudation of tenancy cannot be said to be merely due to the Permanent Settlement. It is to some extent due to other causes including some subsequent enactments.

(*iii*) Had there been no Permanent Settlement, enhancement of rent would perhaps have been higher because the zamindars having no security of their interest would have then tried to get as much as possible within the period of their temporary settlement.

(*iv*) The zamindari system can never be said to be oppressive though individual zamindars may be found to be guilty. On the other hand many zamindars are well known for their benevolence.

Q. 12. Certainly not.

Q. 13. Apparently it may seem that the State is losing considerable amount of money due to the continuance of the Permanent Settlement, but this is false economics. If we go deep into the matter we shall find that a good deal of money earned by the zamindars is contributed, a portion of which again thus goes into the coffers of the State in the shape of taxation. Moreover, we must not forget that the zamindari system has been responsible to no small extent for the economic development of the country, which has certainly enhanced the income of the State. We are against any of the three methods suggested in question 13.

Q. 14. We do not suggest either (*i*) or (*ii*) in question 13; but should it be decided to take any of the above two steps, the zamindars should be given reasonable compensation. The fixing of the amount is a question of detail, but according to usual methods of paying compensation the total amount should be not less than Rs. 250 crores. The compensation should be paid in Government of India bonds carrying interest.

Q. 15. Bonds should be redeemable as in that case some day the State may free itself of its debts to the zamindars. The period is a question of detail. Interest should not be less than 6 per cent. per annum.

Q. 16. It will lead to socialism.

Q. 17. If State landlordism is to be accepted it is proper that the interest of all intermediate tenureholders is also purchased. This will facilitate the State becoming a full fledged landlord. It is doubtful however if it will be of any advantage to the Government.

Q. 18. Some additional machinery would certainly be required; figures for the cost cannot be given.

Q. 19. Raiyats would not like to come directly under the Government. Khas mahal tenants are in most cases in a worse position than tenants under zamindars.

Q. 20. Permanent Settlement is not the only cause of subinfeudation and the creation of permanent tenures by zamindars. These have no special influence on the economic and social life of the raiyats.

Q. 21. There will certainly be a drift towards socialism.

Q. 22. If all the land is purchased by the State their khas lands may also be purchased by Government on payment of proper consideration. As regards homestead, an option should be given to the zamindars to retain it if he likes on payment of makarari rate of rent. The criterion should be the settlement records and subsequent changes therein.

Q. 23. The occupancy right as at present enjoyed by the raiyats is certainly a creation of British legislation and no such right existed in earlier periods.

Q. 24. Much has been the controversy regarding this question of proprietorship, but the zamindars were the actual proprietors of the soil from the pre-British period and the tenants were mere tillers of the soil on payment of rent to the landlords in the shape of money or part of produce.

Q. 25. Occupancy right should not be confined to actual tillers of the soil but a raiyat cultivating his lands by himself or hired labour as also a raiyat holding a part of his land in khas and part by settling under-tenants should also be protected. Raiyats who have sublet their entire holdings for agricultural purposes should also have occupancy right.

Q. 27. It was never the intention of the Permanent Settlement to give protection to non-agriculturist tenants. They cannot be given occupancy right.

Q. 28. No opinion at present.

Q. 29. Yes, they are on the increase; it is mainly due to the change in the system of village economy.

Q. 30. It is difficult to mark out any particular item or items as the cause of the increase; it may however be pointed out that cause no. (*ii*) is certainly responsible to a considerable extent.

Q. 31. It is difficult to ascertain the area held by bargadars. The majority of bargadars do not hold raiyati or under-raiyati lands.

Q. 32. The right of occupancy or other rights should not be extended to bargadars. They having no status in the land and cannot claim protection.

Q. 33. The barga system is certainly not the last word in sound economic management of cultivation; but under the present circumstances it is difficult to suggest any alternative.

Q. 34. The effect of giving occupancy right to bargadar may lead to the extinction of the barga system as the superior holders will try to keep the lands in their khas possession resulting in unemployment of the bargadars.

Q. 35. It depends upon the exigencies of circumstances. A maximum limit may be fixed by law. It should be 50 per cent.

Q. 36. There is no doubt that the wages are low but they are not so everywhere. They should be increased so that their economic position may be compared favourably with others.

Q. 37. Yes. The 1938 amendment has increased the tendency. It will be prejudicial to the interest of the cultivating class as a whole. Transfers should be restricted to agriculturists only; but this is not always practicable.

Q. 38. About 16 bighas.

Q. 39. Yes. Yes.

Q. 40. Attempt should be made for co-operative farming which will bring the benefit of consolidated holdings and cultivation will be more economic.

Q. 41. We have no objection to give special facilities to the cultivator in order to enable him to consolidate his holdings.

Q. 42. Of course accumulation of very large areas in one particular hand is undesirable. It is difficult to fix any definite limit; it will depend upon conditions prevalent in particular cases.

Q. 43. There is no doubt that coparcenary is detrimental to good cultivation. This evil can be minimised by co-operative farming or by mutual settlement between the coparcenaries.

Q. 44. According to suggestions in the previous answer.

Q. 45. There should be some legislative measure for compelling a co-sharer landlord to arrange for collection.

Q. 46. There can be no doubt that at the time of the Permanent Settlement it was presumed that the zamindars would be entitled to enhance the rates of rents payable by tenants; otherwise there could have been no justification for fixing the Government revenue at 257 lakhs out of a total of 285 lakhs, specially when the income of the zamindar would vary with good or bad years and on various natural phenomena.

Q. 47. The framers of the Permanent Settlement never contemplated fixity of the rates of rents in the case of tenants. Had it been so they would not have assessed the Government dues at such a figure. No zamindar would have cared to accept such unjust terms.

Q. 48. In view of the answer to question 47, no reply is needed.

Q. 49. The vast majority of the tenants have got no grievance against the Permanent Settlement as such. It may be that in particular holdings rent appears to be high but this is owing to change of circumstances. This can be remedied and there is no necessity for any drastic step.

Q. 50. It was not a mistake.

Q. 51. No.

Q. 52. The principle of determining fair and equitable rents in Bengal should be one which fixes rents by competition in the light of the principle of economic rent. No hard and fast rule can be laid down.

Q. 53. Here in Bengal in most cases rent is fixed by productivity and demand. It is true that in practice rates differ in different mauzas.

Q. 54. Not necessarily.

Q. 55. Rent of all lands cannot be uniform inasmuch as the produce and other factors are not uniform. Of course, a re-assessment of rents can be made after a thorough survey.

Q. 56. We are averse to this principle.

Q. 57. If such a step is taken there is no reason why the rates of rent should not be re-examined from time to time; such re-examination should better be done once in 15 years.

Q. 58. There would not be any such advantage. If such exemption is granted it is most likely that the majority of the estates would escape payment.

Q. 59. There is no material defect in the Bengal Tenancy Act in the provisions laid down for fixing fair and equitable rent.

Q. 60. It cannot be fair that a particular tenant should get all the benefit which accrues as a result of fluvial action; the improvement should be shared by all interested in the land.

Q. 61. Not necessarily. Of course enhancement should not be made unless there is a persistent rise in prices for a considerable time.

Q. 62. Such discrimination is not feasible in practice.

Q. 63. No objection. The tenants need not be afraid because the relation between them and the landlords is not a temporary one.

Q. 64. No objection if such a provision is made in law, excepting in cases where there may arise situation rent.

Q. 65. No immediate change is necessary.

Q. 66. No such case.

Q. 67. It is true that revisional settlements are made with the primary object of enhancing revenue.

Q. 68. Yes, there are many such cases. Many landlords had to abandon the idea of taking re-settlements.

Q. 69. On the whole, it would be unfair on the part of the Government to go on with revisional settlement and enhance the rent during the years when prices were steadily going down. The raiyats have a legitimate grievance on this ground.

Q. 70. It is due to the fact that the Government has no fixed basis for fixing the rent for khas mahal lands.

Q. 71. We know no case where the Government has given remission of revenue to the zamindars of permanently settled estates but in

many cases a considerable amount of arrear rents are not collected by the zamindars; thus the zamindar becomes the loser in years of failure of crops. This is most probably due to the financial policy of the Government. Improvement can certainly be made if a sound financial policy is followed by the Government. The framing of rules is a question of detail.

Q. 72. It is not possible to give a correct answer to this.

Q. 73. Productivity of the soil as such is not decreasing in Bengal, though it cannot be denied that in many cases where the land is in continuous cultivation for a long time the land has deteriorated. This is due to the want of scientific methods of cultivation. The stoppage of alluvial action and the discontinuance of indigo plantation have certainly contributed to the progressive deterioration of the soil. The Government has taken some steps no doubt but considering the magnitude of the problem that is negligible. Much more has to be done in this direction.

Q. 74. Not much. This is due to the ignorance of the vast majority of the agriculturists. The organisations set up by the Government under the Acts mentioned are also defective and there is much red-tapism as a result of which the ignorant agriculturists suffer.

Q. 75. Yes, such expenditure has been considerably restricted in recent years. This is due to bad financial condition of Government, which is the outcome of a policy not directed towards the real interests of the country.

Q. 76. Yes. The Government has not used such salami money for the improvement of agricultural conditions.

Q. 77. This is a very general question. There is no doubt that there is room for improvement in connection with the policy of the Government or the land system of Bengal. It may be suggested that consistent with the spirit of the time some modifications should be made without any serious prejudice to the interests of the landlords and tenants.

Q. 78. It is difficult to give an estimate.

Q. 79. The present system and organisation for the maintenance of land records is not satisfactory.

Q. 80. We subscribe to all the suggestions made in the question for increasing the income of the raiyats. Legal provisions must be made to stop the exploitation of tenants by unscrupulous business men.

Q. 81. Yes. Under the present condition of agriculture in this country unless sufficient improvements are made in it, at least 25 per

cent. of the people employed in agriculture should be absorbed in other lines.

Q. 82. Diversion of agriculturists to industries is certainly the chief means of relieving the pressure on land at present. Government should encourage and help private industry.

Q. 83. Unfortunately Government have not done much for the improvement of agricultural credit. No efficient organisation for this purpose exists.

Q. 84. It is difficult to give exact figures though there is no doubt that the cultivators used to pay a heavy interest. Some really efficient organisation should be set up for the purpose of supplying cheap agricultural credit.

Q. 85. The co-operative societies have done something in this direction but considering the magnitude of the problem, it is merely a drop in the ocean. Their interest rates, though not very high, should be decreased. The figures may be obtained from the Co-operative Department.

Q. 86. Debt Settlement Boards have not also been able to deal with the problem properly. The fundamental defect lies in the Act itself whereby unscrupulous persons are taking advantage though real sufferers are helped very little. The credit of agriculturists has gone down and their future is doomed.

Q. 87. If Government establishes agricultural banks in every union it would be certainly advantageous to the agriculturists.

Q. 88. The land mortgage banks have not also fared any better than the co-operative societies.

Q. 89. Yes. The Government on their part can realise their dues easily. The landlords should have some such inexpensive machinery to realise their dues both for their as well as the tenants' interests.

Q. 90. It is not harassing though in some cases there might be hardship. This evil can be remedied.

Q. 91. The old revenue laws should be made up-to-date with necessary modifications.

Q. 92. Yes, landlords should have an opportunity of setting aside revenue sale by depositing the arrears within a fixed period from date of sale.

Q. 93. The Tenancy Amendment Act of 1938 is prejudicial both to the landlords in general and to the tenants in particular. The loss of landlord's income owing to the abolition of transfer fees may be 50 lakhs or so.

Reply by the Noakhali Landholders' Association.

Q. 1. The description given in clause (1) of the duties and obligation of zamindars after Permanent Settlement is exhaustive. The Permanent Settlement did not take away any existing right or rights from the tenants.

Q. 2. The Permanent Settlement made the zamindars, proprietors of the soil. Thus it gave them the power to choose whom they would like as their tenants and to use the land to the interest of the province.

Q. 3. The landlords played a great part in the economic development of the country. They cleared jungles, reclaimed waste lands and made a wholesale improvement of all lands; provided facilities for irrigation and communication, dug tanks, and founded charitable dispensaries and educational institutions. Rural Bengal was what the zamindars made it. Majority of the charitable and educational institutions in Bengal are the creation of zamindars. The zamindars did not fail to perform the functions expected of them.

Q. 4. The zamindars were proprietors of the soil from before. They were only recognised and confirmed as such by the Permanent Settlement. They were never mere collectors of revenue. They had right in land as actual proprietors. Rights of the zamindars were defined even by Act of 1784 (24 George III Chap. 57).

Q. 5. The annulment of the Permanent Settlement would certainly be the breach of a solemn pledge given by the East India Company to the zamindars. The tenants were no doubt not a party to the contract and they had no right to be a party because both according to Hindu and Muhammadan law, soil belongs to the Crown and the Crown has the right to give it to any one it pleases. It merely recognised the right, viz., proprietary right, which the zamindars already possessed.

At the time when the contract was made between the Crown, i.e., the East India Company, and the zamindars, the revenue assessed was only a little less than what was collected as rents from the tenants. It was only after a century of labour, huge expenditure of money, that the total rental from tenants has increased. In view of the solemn promise given at the time by the Regulation that the revenue would never be increased or changed, it would not only be an act of injustice but a breach of a solemn pledge. It would neither be equitable nor honest.

Q. 6. The zamindars have helped to extend cultivation and are enjoying the fruits of their industry and good management. (*Vide* answer to question 3.)

The large increase in cultivation has been mainly due to the initiative and pecuniary assistance of the landlords.

Cultivation has not only increased owing to the enterprise of tenants and the increase in population but has been mainly due to the gratuitous help of the landlords, who have made waste and jungle lands habitable and culturable.

Q. 7. The increase in the rent roll is $\frac{3}{4}$th part due to the good management of the zamindars, one-eighth part due to enhancement of rent and not more than one-eighth part due to the reclamation of waste lands by the efforts of the tenants themselves. All the three factors helped in the increase of the rent roll.

Q. 8. There is no instance of rack renting by the landlords in this district.

The rent payable is, on the average, not more than Rs. 4 per acre—rather rate of rent in permanently settled area is not higher than that prevalent in khas mahal area.

If the Permanent Settlement enjoined on the zamindars to conduct themselves with moderation towards their tenants, they have more than fulfilled that obligation.

The rent which a tenant usually pays for one acre of land does not exceed Rs. 3-12 and it is usually Rs. 3. What does he get for one acre of land per year? He gets at least 15 maunds of jute, worth Rs. 75 and rabi crops, worth at least Rs. 25, total Rs. 100. Thus while the tenant gets Rs. 100 at least he is to pay only Rs. 3-12, i.e., 1/25th of the profit which he makes—and even this he does not pay and 1/3rd of the tenants is always in arrears and sometimes even half.

Q. 9. The zamindars did not fail in any duties enjoined on them by the Permanent Settlement. They have improved their estates by good management and by incurring heavy expenditure. Absence of some landlords now from the village is principally due to economic causes.

Q. 10. The Permanent Settlement was in the interest of Bengal economically, and for the good of all. For the time being, when it was made, the revenue system was for the benefit of the province itself. It has done good to all classes of landlords and tenants because of this Permanent Settlement. The all round ruin in which the agriculture of Bengal was involved at the time of Lord Cornwallis, and the terrible famine of 1770 imperatively called for drastic solution and accordingly Regulation I of 1793 was promulgated. It has made famine unknown in the province. *Vide* R. C. Dutt's Memorial to Lord Curzon. And Bengal peasants are better off than the so-called cultivators of other provinces, who have no right in the land, which they cultivate.

Q. 11. The zamindars never claim to be overlords over tenants nor do the tenants admit them to be so. There has been subinfeudation. This right was recognised and confirmed by the Regulations and any one having proprietory right has certainly the power to use it to his advantage. The cry that 80 per cent. of the income from land goes to the zamindars is not correct. 33 per cent. of rent remains in arrears, 20 per cent. for management and collection charges, 20 per cent. for litigation expenses, so what is left for small landlords whose number is 90 per cent., is hardly sufficient to keep body and soul together. Moreover, Government should never grudge the increase in value of a property with which it parted 150 years ago.

Q. 12. The Permanent Settlement should not be abolished on any or all the grounds mentioned in question 11.

Q. 13. The total abolition of the zamindari system would be a breach of a solemn promise given by the Crown in 1793. The evils of temporary settlement are too well known to be mentioned again. Those evils led to the great famine which wiped off ¼ of the population of Bengal with a fall of revenue which necessitated the introduction of Permanent Settlement. The imposition of a tax on agricultural income would nullify the provisions of the Permanent Settlement, which made revenue fixed forever.

Q. 14. In case Government intends to purchase the interest of all the zamindars, Government should pay at least 20 times the gross income. The total sum required would be about 300 crores of rupees.

Q. 15. If compensation at the above rate be paid in bonds, they should be permanent and not redeemable. The rate of interest should be 4 per cent. per annum

Q. 16. The purchase of zamindaris by the Government would no doubt change the social structure of Bengal. But in view of the recent enactments doing away with almost all the legitimate rights of the landlords and saddling them with additional taxations and the new education cess and the hardships the landlords are suffering in consequence, the delaying tactics resorted to by the tenants under spacious provisions of the Bengal Agricultural Debtors Act, they are willing to part with their zamindaris, if they get a fair compensation.

Q. 17. In case the Crown is determined to buy up the rights of zamindars, it should purchase the rights of the tenureholders as well.

Q. 19. Those who are really raiyats, not those political agitators, who have neither raiyati holdings nor tenures, and who have nothing to loose and who pose themselves as friends of the raiyats, never prefer to come under Government direct. Far from enjoying any

advantages over tenants under zamindars, the khas mahal tenants pay rent at almost double the rate; they are not allowed to be in arrears and rents are sometimes realised from them by means of Government gurkhas.

Q. 20. Subinfeudation or the right to sub-lease by zamindars was recognised by Regulation I. It was a right compatible with the proprietary right of the zamindars. When owing to the tenants being bad it was difficult to realise rent from them, subinfeudation was resorted to just after the Permanent Settlement and it is even now being done for exactly the same reason. The position of the raiyats had not been changed in any way by subinfeudation. The tenureholders, who are local men, are better able to realise rents from tenants than zamindars, who hold estates in different districts.

Q. 21. *Vide* answer to question 16.

Q. 22. If the zamindaris and tenures are purchased, the homesteads and khas lands should be immuned. The test of finding out khas lands will be the same as is given in the provisions of the Bengal Tenancy Act and the rulings under it.

Q. 23. The occupancy right of raiyats is a creation of British legislation. The term came in use for the first time in Act X of 1859. Before these there were khudkasht raiyats, i.e., those who lived in the village and held lands therein—they were of course protected from eviction, if they paid rent. Act X of 1859 settled the unsettled ideas by fixing a 12 years' period of prescription.

Q. 24. The cultivating raiyats were never the actual proprietors of the soil. The king was always regarded as the "lord paramount of the soil". Indeed the property in land as a transferable mercantile commodity, absolutely owned, is not an ancient institution but a modern development only.

In the greater part of the world, the right of cultivating particular portions of the earth is rather a privilege than a property. Rent is never a tax.

Q. 25. We are not in favour of maintaing or extending the right of occupancy to more than one grade of tenant.

Q. 26. Occupancy right should never be confirmed to actual cultivators alone, but to all those who are entitled to gain them by statute, as enumerated in Bengal Tenancy Act of before 1929.

Q. 27. The Permanent Settlement only gave protection to one class of tenants, viz., "khudkasht" tenants. Thus Mr. Shore writes (Harrington's Analysis, Vol. II). "There are two other distinctions

of importance with respect to the rights of the raiyats. Those who cultivate the lands of the village to which they belong, either from length of occupancy or other cause, have a stronger right than the other, and may in some measure be considered as hereditary tenants. The other class cultivate lands belonging to a village, where they do not reside. They are considered tenants at will." Non-agriculturists should not be debarred from occupancy rights, when they purchase or gain lands with rights of occupancy. In fact many in Bengal own lands which they do not themselves cultivate and it would be preposterous and dishonest to deprive them of the rights of occupancy and confer them on those labourers who, for mere wages or for part of the produce, cultivate.

Q. 28. There is no reason for levying an additional tax by the State on lands converted for non-agricultural purpose. The land belongs to the landlord who is the proprietor and he is entitled to use it in any other way than cultivation. The State has no right or power to interfere, it having divested itself of all proprietary interest in favour of the landlord. Imposition of additional tax by the State would surely retard the improvement of land even when necessary. The landlord has the right either to allow such uses or to sue for ejectment for using the land in a way which renders it unfit for the purposes of the tenancy.

Q. 29. There is no great increase in the number of bargadars or others cultivating on a share of the produce. The cause of a slight increase in their number is due to the fact that the bhadralok class is migrating to cities for economic reasons and leave their lands to be cultivated by others.

Q. 30. None of the causes mentioned in question 30 has contributed to the slight increase in the number of bargadars.

Q. 31. The area normally held by a bargadar is not uniform in all places. In this part the area held by a bargadar is about 5 or 6 bighas, i.e., 2 or 2½ acres.

The area held by a bargadar varies almost every year, many bhadraloks have taken actual cultivation in view of the trend of legislation which may ultimately deprive a man of his khas lands acquired with good money for his maintenance. At present not more than 3 per cent. of the land is cultivated through barga system.

Q. 32. The majority of bargadars hold occupancy rights in other lands. The right of occupancy should never be extended to bargadars with respect to their barga lands for they are mere labourers having no interest in those lands.

Bargadars are carrying on respectable professions and their status is higher than that of day labourers. Any attempt at giving bargadars right of occupancy will reduce the bargadars to the position of day labourers.

Q. 33. The barga system can hardly be called unsound. It gives lands to persons who have not the means to purchase or take settlement of them. With a small holding not sufficient for meeting all his wants, the cultivator becomes a bargadar with respect to other lands. He is only to provide labour himself and gets half the produce, this is a great asset to him.

Q. 34. To give occupancy rights to bargadars would not only be a great anomaly but a great injustice too. A man has purchased 10 acres of land at a price of Rs. 2,000. He lets out the land in barga, the bargadar without spending a farthing, gets land worth Rs. 1,000. It will be most inequitable too. People such as zamindars and others will not let out their lands in barga and will rather prefer to keep them under khas cultivation. Thus many, who gained their livelihood by these means, will fall in difficulties and will be out of employment.

Q. 35. The fair proportion of produce payable by a bargadar is half the produce and this is well established by long usage and custom. No law should be enacted for fixing the maximum limit.

Q. 36. The wages of an agricultural labourer per day vary from 4 annas to 8 annas in East Bengal in accordance with demand. A bargadar is generally better off than an agricultural labourer. The former always gets a fixed amount as his share while the latter gets wages only in season time and soon spends them away.

Q. 37. The rights of transfer of holding given by the Act of 1929 was indeed a great evil to the raiyats. They are improvident and there was no check in their voluntary transfer of holdings or those sold away in execution of decrees against them.

There was a little check on transfer as landlord's fees were to be deposited and there was the right of pre-emption by exercising which for their dispossessed tenants the zamindars re-purchased those lands and let them have the lands again.

This little check was done away with by the new Act of 1938, which took away the right of the zamindars to have 20 per cent. salami and the right to pre-emption.

The result is disastrous. By a stroke of pen and a hasty legislation, the proprietary rights of the zamindars are taken away. Their right of pre-emption is gone. The tenants are allowed unrestricted liberty to transfer their holdings at will and none is there to restrain him.

Within 30 years the Bengal tenants will be mere labourers, as in other provinces. The measure does not benefit the raiyats for whom it is intended, while it ruins the landholders.

In our opinion, jote rights should be non-transferable as before 1929 or if made transferable, transfer fee and the right of pre-emption should not be abolished, but should be retained as before. It would be impossible to restrict transfer to agriculturists alone, because most of them have not the means to buy—and any measure to so restrict it would only bring in more confusion and anomaly.

Q. 38. There can hardly be any fixed standard of an economic holding, it will vary largely in proportion to the members and demands of the family, which owns it.

Q. 39 & 40. Raiyati holdings are becoming uneconomic, owing to the (1) Hindu and Muhammadan laws of succession and inheritance.

(2) Jote rights being made transferable without the slightest check.

Consolidation of holding is desirable no doubt, but not practicable, so long as the laws of inheritance remain in force, and jote rights are allowed to be transferable.

Q. 41. Cultivators must have funds to purchase holdings to increase their lands. Unless there be Crown grant of lands without charging any price for it, there is hardly any special facilities, which can be given to a cultivator to increase his holding. The zamindars will have no objection to give facilities to tenants to consolidate their holdings at their own cost.

Q. 42. There should be no limit to a man acquiring lands, if he has the means to do so. Artificial restraint enacted to prevent acquisition of many raiyati holdings by one man will hardly produce any good; nor is it practicable.

Q. 43. Co-parcenary is inevitable so long as the laws of inheritance remain in force.

Q. 44. Nothing can be done to stop the evil effects of co-percenary and fragmentation in estates and tenures, unless the laws of inheritance are changed.

Q. 45. No, the Bengal Tenancy Act contains provisions for appointment of common managers under certain conditions.

Q. 46. One of the means, adopted by landlords for increasing their income, was certainly enhancement of rent or rates of rent.

Q. 47. The framers of the Permanent Settlement never contemplated the permanency or fixity of the rates of rent in the case of tenants then existing or who might subsequently come on the land.

By the Permanent Settlement there was full recognition of the right of zamindars to let the land comprised in the zamindaris to whomsoever they pleased and in whatever manner they pleased (*vide* section 52 of Regulation VIII of 1793) excepting lands comprised in any mokarari (under section 52) or taluks (under section 51) and also except lands that were in occupation of khudkasht raiyats (section 60, clause 2). There were cetain restrictions. The restrictions do not refer to the amount of rent; they refer merely to illegal cesses and abwabs. The Regulations speak of pargana rates, *vide* Regulation XLIV *of 1793.*

The preamble says:—

(1) That at the renewal of a patta the rate of rent was to be determined by the contracting parties.

(2) That there exist certain usages of *pargana rates.*

(3) That according to established *usages the Government* was entitled to get a *certain proportion* of the annual produce of every *plot of land.*

(4) That the *proprietor* of land was to get it after Permanent *Settlement.*

Thus the pargana rate was a certain proportion of the annual produce of every plot of land which, according to ancient usages, was the share of the ruling power which was made over to the zamindars by Permanent Settlement. Thus the zamindars would be entitled to all advantages arising from the increase of prices. The foregoing restriction of pargana rates might have applied to khudkasht *raiyats or* resident cultivator raiyats, but with respect to newcomers there was no reservation; they were to be bound by contract under which they held lands.

Q. 48. There was a great encroachment on the right of zamindars by section 50 and section 6 of the Bengal Tenancy Act by which presumption of fixity of rent was held to be deducible from 20 years' payment of the same rent or rate of rent.

By the Permanent Settlement, the revenue was fixed for ever. The zamindars were made proprietors of the soil, which empowered them to let out their lands on whatsoever terms they liked without any State interference.

Q. 49. There was no intention of the framers of the Permanent Settlement that the rents of the tenants, then existing, should never be increased. *Vide* answers to questions 47 and 48.

There is no necessity for reducing the present rent and there is no standard to determine the rent or rate of rent prevailing at the time of Permanent Settlement. Nor is it practicable to determine who are

successors in interest of those who were raiyats then and who came in subsequently.

The zamindars were enjoined to treat the tenants with moderation which conveys no idea that tenants would be allowed to enjoy land at a fixed rate forever.

Q. 50. Zamindars being proprietors, they have the right to get a certain share of produce of every land and so if the price of food crops rise, necessarily the rent, which is nothing but produce reduced to money value, must also rise. Government was perfectly right in providing for enhancement of rent on the ground of rise of prices of staple food crops.

The last portion of the question does not arise.

Q. 51. It was not the intention of the Government that zamindars would settle all lands at pargana rates.

Zamindars being proprietors of the soil, they have every right to settle the lands on any terms they liked and enjoy a substantial profit.

Again pargana rates are vague. They were not definite. They were different with respect to different tenants. They might be one with respect to khudkasht raiyats, different as regards other tenants who took new lands and who were not resident cultivators.

Q. 52. *Economic rent.*—The various modes, enumerated for determining the so-called economic rent, will only bring in confusion. There cannot be any common standard in the cost of cultivation and the fooding expenses of an agriculturist's family, every year and in every part of Bengal. Family members may be more or less in different families.

A huge expenditure will have to be incurred in accepting share of produce as rent. Moreover, this will fluctuate every year. The same difficulty will arise in determining the market value of each holding, for it will be different in different parts of Bengal.

Customary rates are also impracticable to find.

Rent in kind instead of in money should bring more hardship on the tenants. And if the system of rent in kind is introduced it should confer power of destraint on landlords.

Q. 53. So far as the Government estates are concerned, the rates of rent are much higher than those of permanently settled estates. Moreover, we do not exactly know the basis on which Government fixes its rate of rent.

So far as an estate is concerned it consists of different mauzas or villages situated in several districts and the rate of rent cannot therefore be the same in all villages of one estate.

Q. 54. It is not true that weaker and poorer tenants pay higher rents, and there is no reason for such discrimination. The settlement of lands was principally based on the productivity and demand and supply of it. And when once the rate was so settled in a village it became customary rate with respect to that village and underwent very little or no change during all the years.

Q. 55. Even assuming that all the zamindars and middlemen are removed, readjustment of rents on a uniform basis throughout the province is not possible and there can be no change with respect to the rates of rent prevailing in different mauzas. Lands in Bengal are not of the same kind everywhere, so it is not practicable to frame a uniform rate in all parts of it.

Q. 56. To take rent in kind or its equivalent in cash is impracticable as previously stated. To determine it, will require a huge amount of expenditure and labour every year and this will be for no purpose. Moreover, it will be an innovation, which is conducive neither to the welfare of the tenant nor to that of the landlord.

Q. 57. Rents should never be fixed in perpetuity. Neither can it be altered on the needs of the State from time to time. They may be enhanced, if there are sufficient grounds as embodied in the Bengal Tenancy Act.

Q. 58. The question is difficult to understand. Whether the framer means raiyati rent or revenue to be paid by landlords is not clear. Perhaps, he makes a confusion between the two words "rent" and "revenue". If he intends to mean "rent", the suggestion will practically deprive landlords of at least 20 per cent. of the rents realisable from tenants. If he means "revenue" payable by the landlords, then as there are more than 80 per cent. of small landlords, they would be exempted from payment of revenue and will enjoy their estates revenue free. Revenue can never increase because it was fixed forever by the Permanent Settlement.

Q. 59. There is no defect in the procedure for fixing fair and equitable rents and for enhancing rents in the Bengal Tenancy Act.

Q. 60. Landlords are proprietors of the soil. If the productivity of the land has increased owing to fluvial action and the tenants get more or better crop, it is but reasonable that the rent should also increase. It is unfair that a tenant should get the sole benefit of improvement, and the State or the landlord, who has got the rights of the State, should get nothing.

Q. 61. On the same ground, there should be enhancement of rent on account of rise in prices of staple food crops.

Q. 62. It would be inequitable to give up enhancement on the ground that the whole produce of the tenant would be consumed in meeting the family needs. And if once this principle is adopted there would be no enhancement and no end of litigation in finding out whether the produce got by a tenant is sufficient for his family needs or not.

Q. 63. Advance rent and salami are two different things. Salami is what is paid as nazar to the landlord for taking settlement of land and advance rent is rent for 2 or 3 years paid in advance. In East Bengal there is no case in which advance rent is paid for raiyati land. There was first the pargana rate applicable to khudkasht tenants only, then came the word *prevailing rate*, i.e., the rate of rent paid by tenants in a particular mauza.

If other tenants pay a particular rate of rent, there is no reason why a particular tenant whose rent is less should not pay at the same rate. If the raiyat has improved his holding or land which was lower in value, the Court in granting enhancement should certainly take that fact into consideration.

Q. 64. There should not be any provision for reducing contractual rents or for limiting rents for new settlements. There may be provision for reduction of rent on the ground of fall in the price of staple food crops—to obviate hardship on tenants.

Q. 66. In granting enhancements under section 105, Bengal Tenancy Act, the Settlement Officers and Special Judges rather erred in leniency towards tenants and there is absolutely no reason to doubt their ability and impartiality.

Q. 67. Revisional settlements are sometimes made with the object of enhancing revenue.

Q. 68. No.

Q. 69. We do not know of any such instance.

Q. 70. We are not conversant with rates of rent in different khas mahals of the Government of Bengal. Perhaps rents vary according to local conditions.

Q. 71. The zamindars are not as a rule allowed remission of revenue in any circumstance. We do not know of any instance in which, this has been done, in the Noakhali district. The conditions, enumerated in question 71 for remission of Government revenue, are such as cannot be proved and the procedure being impracticable has never been

availed of in East Bengal. Even when the tenants do not pay rent, revenue has to be paid, otherwise estates are sold away.

Q. 72. So far as agriculturists are concerned, they have not to incur any cost of cultivation as they or their family members plough and reap themselves.

Even when day labourers are engaged for particular times, the total cost per acre in the case of jute does not exceed Rs. 15 and in the case of paddy Rs. 10.

Q. 73. There are no materials before us to show that the productivity of the soil of Bengal is on the decrease. The measures taken by the Government to improve the fertility of the soil are not adequate.

Q. 74 & 75. We do not know anything about these questions.

Q. 76. Salami is realised by the Government at the time of settlement of new lands in khas mahals. No portion of salami is utilised in improving the agricultural condition of those lands.

Q. 77. In our humble opinion, the land revenue system of Bengal is not responsible for the condition of the raiyats. They always live beyond their means and incur debts which they cannot pay.

The districts of eastern Bengal are jute growing districts. The price of jute has fallen down. Unless a standard price of jute is fixed and enforced by statute, there is hardly any possibility of improving the condition of raiyats.

Q. 78. Thrifty tenants are able to maintain themselves from the produce of their land.

Q. 79. The method suggested is hardly practicable and it will entail a huge cost and will give rise to endless controversies as to the truth of the entries.

Q. 80. We are in agreement with the suggestions contained in the question for the increase of the income of the cultivating raiyats. But we think that their condition cannot be improved unless there be substantial State aid and more wealth comes in the province. And this is possible if the crops which they grow, especially jute, gets a decent price which it will never fetch, unless there is legislation and small industries are encouraged.

Q. 81. We do not think that the pressure of population is the main reason of the poverty of agriculturists.

Q. 82. To divert them to large and small industries by starting Government aided factories is no doubt one of the means for relieving the pressure of population.

Q. 83. Agricultural credit can be increased when men believe that if they lend money to agriculturists they would get back their money. But this belief has been sadly shaken by the Bengal Agricultural Debtors Act. Unless that Act is repealed or salutary provisions are introduced, by which applications are to be filed before Munsiffs and appeals are to be preferred before Subordinate Judges, agricultural credit is gone for ever in Bengal at least. Private mahajans were ever ready to help the agriculturists. They are now shy because of the Bengal Agricultural Debtors Act. It is not possible for the Government to supply the needs of every agriculturist in Bengal.

Q. 84. We do not know whether 25 per cent. of the gross produce of land goes to the mahajans every year. But a portion is spent for payment of interest. Now the mahajans have fallen into difficulties. Their ruin is staring them in the face and 90 per cent. would be satisfied with the principal amount lent, with a small sum as interest. Is the Government ready to find out that sum? If it is so, the debts of the agriculturists may be wiped off in no time.

Q. 85. Co-operative credit societies are sheer failures in tackling the credit problems of the agriculturists. The system of lending is bad and owing to the paucity of competent officers in the department, Government has incurred only loss after loss.

Q. 86. The principal defects besides those mentioned in answer to question 83, are:—

(1) Rent should never have been included under the operation of this Act. It has been a great hardship to landlords in as much as they are liable for prompt payment of revenue while payment of their dues are indefinitely postponed.

(2) Sanctity of contractual relation is brushed aside and ignored.

(3) The personnel of all Boards under the Act are highly unsatisfactory and this has rudely shaken the faith of the people in the British administration of Justice.

(4) Arbitrary and summary powers has been conferred on unlettered persons without the slightest knowledge of law and procedure without any check even from the Highest Court of Justice and even the appearance of lawyers have been shut.

(5) Rural credit is almost gone due to the operation of the Act.

(6) The administration of justice in regular courts has been paralysed.

Q. 87. The suggestion is good no doubt, but it will not be practicable.

Q. 89. To confer facilities for speedy realisation of rent was an obligation which the Government took upon itself at the time of Permanent Settlement.

The various Bengal Tenancy Acts passed, have made rent suits costly and lengthy. There are instances where, for a claim of 12 annas or Re. 1, Rs. 15 to Rs. 20 are to be spent, when there are co-sharer landlords and tenants. The time spent is never less than 1½ year or 2 years.

In helping the landlords in speedy realisation of rent, there should be drastic change in the Bengal Tenancy Act, and a provision added in it by which as soon as a tenant is in arrears for 4 years or so, on the expiration of a prescribed period, he will no longer be a tenant having right in the land but a trespasser only and the landlord will be entitled to eject him.

In the opinion of this Association, the procedure for rent suits should be simpler and more speedy. As for instance, in the place of serving summons on co-sharer landlords and tenants, there should be a provision for service of registered notice or summons and on the expiry of the time fixed (never exceeding a month) a decree should be passed at once and instead of the elaborate rent execution proceedings, the decree should be executed forthwith without a formal application for the same. The provisions of Act VIII of 1819 (Patni Regulation) should be made applicable to rent suits. Excepting those estates which are managed by the Court of Wards, at least 30 per cent. of rent remains in arrears every year in the case of most other estates. Tenants have means to pay, yet they will not do so.

Q. 90. Recovery of rent through the Public Demands Recovery Act is neither objectionable nor harassing. This special power should be more widely given to landlords, so that they may easily realise their rents. Section 158A of the Bengal Tenancy Act should find place in the statute without the imposition of maintenance costs.

Q. 91. We are in favour of retaining the old Regulations and w are rather afraid of new legislations, hastily complied and mor hastily made into laws.

Q. 92. In the Civil Procedure Code and in the Bengal Tenancy A there is provision that if a property is sold in execution of a decre the sale can be set aside if the decretal amount with 5 per cent. con pensation be paid to the purchaser within a certain time. But the Revenue Sale Law there is no such provision. We would welcon some such section in the Revenue Sale Law itself.

Q. 93. The economic effect of the Tenancy Amendment Act of 19 is disastrous on the landlords and the tenants. By the Permane

Settlement up till 1938, the landlords were recognised as proprietors of the soil and jote rights were non-transferable. In 1929, there was a compromise, which recognised the proprietary right of the landlords and allowed them 20 per cent. salami and the right of pre-emption and they agreed that the jote rights may on those conditions be transferred. But the amending Act of 1938, confirmed the transferability of jote right, while it abolished the provision of 20 per cent. salami and the right of pre-emption. By a stroke of pen, on the face of opposition of all landlords, the Bill was made an Act.

The average income from landlords' fees amounted to about one-tenth of the annual gross income and the Bengal Government has thought fit to deprive the landlords of this for no fault of theirs. By taking away the right of pre-emption from the landlords, the Bengal Government has conferred it on the co-sharer raiyat.

While causing this heavy loss to the landlords, has the measure benefited the tenants? Certainly not, if transferability of jote rights remains as it is now without any check, these tenants, at least a major portion of them, will be landless within the next 30 years and land will go to a handful of persons.

In addition to those enumerated above some other defects of the Bengal Tenancy Act are:—

(1) Suspension of the enhancement of rent.

(2) Retrospective effect of wiping off usufructuary mortgage debt after 15 years.

(3) Remission of rent in the case of diluvion keeping the raiyats' interest in tact, without any proportionate remission of revenue.

(4) Abolition of section 158 (A) of the Bengal Tenancy Act.

(5) Conferring the right of pre-emption on co-tenants.

Reply by the Sundarban Landholders' Association.

Q. 3. Although exhaustive data on this point might not be easy to get, there is not the least doubt that the zamindars have played a very important part in the economic development of Bengal. The reclamation and utilization of the Sunderban lands, particularly, are due entirely to the initiative and capital outlay of the zamindars of the area. Furthermore, the contribution of the zamindars to the economic development of the province should not be judged in terms of agriculture alone, nor should the economic criterion form the sole standard for judging the usefulness of a class of landed proprietors. A landed aristocracy has other important social and cultural functions to discharge in addition to development of the land. Their contribution to the community should be judged by this wider standard. Even though all zamindars might not have been equally energetic in developing land themselves, they have in their own interest, always helped and encouraged these efforts.

In our opinion, the zamindars have not failed to perform the functions assigned to them by the Permanent Settlement. The Settlement expected them to pay the Government revenue regularly and to extend to their own tenants the same liberal treatment they received from the Government. This the zamindars have always done, in many cases at great sacrifice to themselves individually.

Q. 5. Annulment of the Permanent Settlement would be a clear breach of pledge; the assurances given at the time leave no doubt whatever on this point. The agreement was between the zamindars and the Government and it was concluded with full knowledge that a third party indirectly involved in the agreement existed. There was nothing in the nature of the Permanent Settlement (which was a bilateral agreement between the Government and the zamindars for the realization of revenue) calling for or making necessary, legally or morally, the consent of the tenants. The rights of the latter were fully protected within the system and within the terms of the Settlement.

So far from crippling the financial resources of the country, the Permanent Settlement gave a financial stability to the Government which towards the end of the 18th century and the beginning of the 19th would have been impossible to secure otherwise. The fixity of land revenue was decided upon in full consciousness that thereby the Government debarred itself from raising the assessment of land at a future date. There is no reason why the fixity of land revenue should constitute a financial handicap. The zamindars are not and have not been immune from other existing forms of taxation.

Q. 6. Refer to answer 3. There is no doubt about the initiative of, and assistance from the zamindars. Whether the increase in population is responsible for the extension of agriculture raises another extremely difficult question, viz., to what the increase in population is itself due. Increase of population is as much an effect of economic stability and progress, as a cause. It is impossible to apportion the credit for the development of the land between the zamindar and the tenant. It is exactly like trying to find out whether capital or labour has contributed more to industrial development.

Q. 7. All three factors are responsible, the third factor (enhancement of rent) can be statistically measured. The other two are intangible and impossible of quantitative measurement.

Q. 8. There are exceptions to every general statement. If there have been extortionate zamindars, there have also been fraudulent and troublesome tenants. Generally speaking, however, it may be said that subject to the measures necessary for the punctual payment of land revenue due by the Government from themselves, the zamindars have always been considerate to their tenants.

Q. 9. Refer to 3 above. The zamindars have discharged many duties and functions besides the extension of cultivation. The primary duty imposed upon them was the regular and timely payment of land revenue for carrying on the administration. This duty they have never failed to perform. The contribution of the zamindars to the culture of the country, and to good government and maintenance of law and order must also be taken into account. Absenteeism was very exceptional in the 19th century.

Q. 25. To the tenant actually cultivating the land, with adjoined homestead. The creation of other occupancy rights would interfere with the interests of the cultivators.

Q. 26. If the principle is introduced that only the tiller of the soil is to have occupancy right in land, there does not seem to be any justification for affording special protection to raiyats who sublet their land wholly or partly, except in rare instances when the raiyat may be forced, due to such circumstances as illness and other disability to let out his land to others for agricultural purpose alone.

Q. 27. No, such was never the intention of the Permanent Settlement. A distinction should be made between agricultural and non-agricultural lands.

Q. 28. No.

Q. 29. Bargadars have been on the increase of late mainly owing to fall of price of agricultural produces, lack of proper marketing

facilities and want of sufficient initiative on the part of the agriculturists. In the Sunderban area, paddy being the only agricultural produce, the raiyats have been even more hard hit than elsewhere by the abnormally low price of paddy.

Q. 30. (*i*) No. (*ii*) Yes. (*iii*) Yes.

Q. 31. About 15 bighas each on an average.

Yes, in a majority of cases they hold either raiyati or under-raiyati rights.

Q. 32. On no account should the right of occupancy or other extended rights be conferred on bargadars, as they hardly need any protection. They enjoy merely the status of labourers whose services are paid in kind. If protection is at all needed, it should be accorded to the holder of the land concerned as against the unjust claims of the bargadars.

Q. 33. It seems to be economically sound, inasmuch as bargadars have only to pay a certain share of the crop and are not liable like the raiyats to pay rent even when there is a failure of crop.

Q. 34. The effect will be that the bargadars will not get any land to cultivate, as the zamindars and other landholders will arrange to cultivate their lands by means of hired labour, thereby throwing the bargadars entirely out of employment.

Q. 35. One-half to two-thirds according to local custom. No maximum limit need be fixed by law.

Q. 36. The daily wages of agricultural labourers vary from 4 to 6 annas in normal years and two to three annas in times of distress. their economic position is to all appearance worse than that of bargadars.

Q. 37. Yes. It has certainly been prejudicial to the interest of the cultivating raiyats as a whole. Yes, although it might not be easy in all cases to restrict transfer to agriculturists only. Re-introducing the landlord's right of pre-emption will be a valuable safeguard in this respect.

Q. 38. In order to enable a holding to be economic in size, meaning thereby that it would be profitable by cultivating it with one plough and a pair of bullocks, it should be at least fifteen bighas in area.

Q. 39. Yes. Yes.

Q. 40. It is no doubt desirable, but hardly practicable without interfering with the present laws of inheritance and transfer. Rights of unrestricted transfer which threaten the economic soundness of a holding are to be checked. This is done in many European countries.

Spliting up of holdings by increase of population and inheritance cannot be controlled as long as private property is recognised. But it seems the introduction of co-operative farming as in the Punjab will ensure the maintenance of the size of the holding at an economic standard for farming purposes while at the same time leaving proprietary rights untouched. There is no necessary relation between the spliting up of the proprietary interests in a holding and the spliting up of the holding for agricultural purposes.

Q. 41. If possible, special facilities should be afforded in this direction; but in the present state of things the zamindars have no hand in this matter unless the whole structure of the existing land laws be transformed.

Q. 42. Accumulation of large areas in one hand is not advisable in the case of cultivators with small capital at their disposal. A reasonable limit to such accumulation should be fixed.

Q. 43. Cultivation cannot suffer in any way, if coparceners act jointly with one purpose.

Q. 44. Nothing can be done so long as the present law of inheritance and transfer are not substantially altered.

Q. 45. No.

Q. 52. The principle to be followed for determination of fair and equitable rent should be a definite share of the produce and local custom upon which the present system is mainly based.

In the Sunderbans area rent should be assessed at the rate of at least 20 per cent. of the average market value of produce yielded.

Q. 53. Raiyati holdings are usually assessed at a particular rate of rent per bigha according to the quality of the land; and the rate may vary in different parganas, according to local custom. Some lands which were originally settled at a remote period at low rate of rent may now bear a higher rate owing to the gradual improvement subsequently effected at the cost of the landlord and growing demand for land owing to the increase of population and consequent unemployment.

Q. 54. Imposition of higher rent is never dependent upon the poverty or weakness of the tenant concerned. Ticca tenants who hold land for a particular term without paying any premium may have to pay a higher rate of rent which is usually determined by mutual agreement and local custom.

Q. 56. In consideration of the fact that present day conditions have altered immensely this rate may be fixed at a minimum of 20 per cent. of the produce.

Q. 58. No advantage would be gained by the substitution of income-tax in place of rent.

Q. 59. The procedure is defective inasmuch as it is extremely difficult for the landlord to establish his right to enhancement. The procedure followed is also a very cumbrous one, resulting in unnecessary delay and denial of justice to the party concerned.

Q. 60. There should be enhancement of rent on grounds of fluvial action. Landlord should get a share of the extra profit as the proprietor of the soil.

Q. 61. No, if the enhancement is based on a stable rise testified by the prices for a period of at least fifteen years.

Q. 62. No such discrimination should be permitted and the law should be general and uniform in the matter of enhancement of rent.

Q. 63. General reduction of rent on the ground of prevailing rate cannot be permitted. If the price of food crops fall, reduction of rent may only be allowed in proportion to the extent of enhancement with respect to those holdings the rent of which was increased on account of rise in prices. Salami is never accepted to mean as an advance payment of rent as it is only the premium for obtaining settlement from the landlord of the tenure or holding concerned.

Q. 64. Rates of rent which have been fixed by mutual contract by parties to the same after due deliberation, should not in any case be lightly interfered with as the sanctity of contracts should be respected at all costs.

Q. 65. The provisions of Part II of Chapter X should be so amended that it can offer greater security to tenants under Government estates as regards stability of their rents.

Q. 66. No such case has been brought to the notice of this Association.

Q. 67. From the statistics of cases it appears that the primary object of revisional settlements has been and is usually further enhancement of revenue and that is the consensus of opinion held by the entire landed class in the Sunderbans area where the enhancements have simply been incredibly high.

Q. 68. An illustrative list of some recent cases is given below—

Tauzi No.	Name of holder.	Previous revenue.	Revenue after re-settlement.	Revised revenue.	Approx. percentage of increase.
		Rs. a. p.	Rs.	Rs.	
3195	T. P. Ghosh ..	95 4 2	1,566	1,112	1150%
1477	Port Canning Co. ..	1,151 6 0	18,177	8,726	800%
1370	Ahidhar Ghosh ..	702 2 6	11,557	5,516	800%
1493	N. N. Mitter ..	1,459 8 0	17,365	9,657	675%
1439	Estate of late Nawab Nazir Ali Khan Bahadur ..	1,337 0 0	17,227	9,019	675%
1359	Bibhuti Bhusan Roy & others	193 13 5	1,906	1,158	645%

Q. 69. It was undoubtedly a mistake on the part of Government to enhance revenue at a time of world-wide economic depression and fall in the price of agricultural produces, in spite of the fact that no such enhancement was made in rent payable by tenants. The tenants have hardly suffered in any manner as the zamindars possessing covenanted rights to increase rent by virtue of the terms of the patta and kabuliyat desisted from doing so although they themselves were burdened with a vastly increased revenue.

Q. 71. The rules are clear enough and do not require much improvement. But the application of the rules to the cases concerned require a good deal of attention and sympathetic consideration on the part of the Government. In the Sunderbans area, with which this Association is mainly concerned, no such concession as is provided for under the said rules was granted to the affected zamindars in spite of repeated requests for the same and the fact that they relinquished of their own accord large portions of arrears of rent and interest due from tenants.

Q. 72. In the Sunderbans area, paddy is the only crop cultivated and the average yield is 18 maunds per acre and the cost of cultivation is about Rs. 13 per acre in money value, as the cultivators do mostly all the labour themselves with the help of the adult members of the family.

Q. 74. These acts have not been taken advantage of by the tenants owing to their poverty and the prohibitive nature of the cost likely to be incurred. In the Sunderbans, the landlords have effected all-round improvement in the lands mostly at their own cost for the benefit of the tenants.

Q. 78. Raiyats can maintain themselves and their *normal* families from their annual income.

Q. 80. All the suggestions made are desirable, but the question of costs has to be taken into account. Improved system of cultivation will be very expensive and add considerably to the cost of production of crops. Improved methods of cultivation can only be introduced exclusively with State aid and without any pressure on the landlords or the tenants concerned. Cattle insurance will not be practicable; but for the purpose of saving cattle a larger number of veterinary surgeons should be employed. Raising of prices of agricultural products seems to be urgently necessary for the purpose of relieving the economic distress of the raiyats. Supplementary occupation during slack season, introduction of cottage industries and co-operative farming and marketing organisation seem to be highly commendable for the purpose of improving the lot of the raiyats.

Q. 81. In the Sunderbans area there is no surplus population. But when a particular holding is taken into consideration, the pressure of population will certainly seem to be on the increase.

Q. 82. The pressure of population elsewhere can be relieved by diverting the efforts of the tenants to other lucrative channels. New fields of occupation must be created, but even they would be unable to cope with the problem if the population increases as a result of wide prevalence of polygamy which, considered from the economic point alone, has become wholly uneconomic in present-day society.

Q. 83. Introduction of co-operative system with liberally modified rules and opening of Land Mortgage Banks for the benefit of people depending upon land. No such efficient organisation does exist at present either Government or private except perhaps in Sir Daniel Hamilton's estate in the Sunderbans.

Q. 84. Agricultural indebtedness is undoubtedly very great in Bengal and the only solution lies in increasing agricultural credit by means of land mortgage and co-operative banks. The operation of the Agricultural Debtors Act has been instrumental in preventing the advance of any further money by mahajans to raiyats and consequently put them in a state of utter helplessness without any chance of succour at the present moment. Probably 20 per cent. of the gross produce of land used to go to mahajans as interest. But under the Bengal Agricultural Debtors Act they have been practically debarred from realising anything either principal or interest.

Q. 85. One of the chief defects of the Co-operative Credit Society is the joint liability to be foisted on the landless raiyats and the raiyats holding land who intend to borrow; and this is why it is not much popular. The few such societies that have been started have not been able to touch the fringe of the problem. The Bengal Agricultural Debtors Act and the Debt Settlement Boards have completely upset the good work initiated by them.

Q. 86. Debt Settlement Boards have been of very little practical help to the cultivators. On the contrary they have served to render rural credit shy and almost unavailable and made the agriculturists' condition worse than before. The opinion of Mr. H. P. V. Townend, C.I.E., I.C.S., Commissioner, Burdwan Division, which is shared by this Association, as expressed in December 1938 at the annual durbar held at the Burua Gopal Town Hall of Burdwan is quite explicit on the matter. He said:—"I need hardly say that the tendency to defraud creditors is bound up with the working of the Agricultural Debtors Act." In his said speech he also said "These tendencies are two in number and they are symptoms of one disease, which at bottom is

nothing more or less than dishonesty—a tendency to defraud landlords by withholding rent and a tendency to defraud creditors by withholding payment of debts....." The whole Act abounds with defects and imperfections; to improve it means to recast it. The Bengal Agricultural Debtors Act should be repealed or purged of the manifold defects and the High Court must be given due jurisdiction to try cases under this Act as the highest tribunal. The definition of the term "debt" under section 2, clause 8 of the Bengal Agricultural Debtors Act offers the debtor ample opportunities for deferring payments of rents and cesses. The Debt Settlement Boards have been one-sided in their operation. The Boards are generally composed of members who have pronounced leanings towards the debtors and, as a matter of practice, Debt Settlement Boards generally delay the proceedings quite unnecessarily. These are some of the chief defects of the Debt Settlement Boards. There are others. Below are given some of the proposals for removing the defects :—

(*i*) The definition of "agricultural debtor" should be definite, so that the *bona fide* poor agriculturists alone may enjoy the benefit of the Act.

(*ii*) So far as rents and cesses are concerned, they should be exempted from the operation of the Bengal Agricultural Debtors Act. If it is not at all possible to protect rent from the operation of the Act, the definition of "debt" should be limited to the present liabilities of the tenant at the time of making an application before the Debt Settlement Boards and must not extend to future rents at the time of making the award.

(*iii*) There should be an express provision in the Act for allowing interest in respect of rent and cess dues in the award.

(*iv*) Where the landlord or his agent is required to attend a Debt Settlement Board situated in a thana (police-station) different from where his lands are situated, he should be allowed reasonable costs for undertaking such journeys or in the alternative the landlord should be given option to file his statement of accounts under section 13 (1) in a Board under jurisdiction of which the lands concerned are situated and a partial award as regards rent dues should be made by the latter Board.

(*v*) Immediately on the submission of accounts under section 13 (1) of the Bengal Agricultural Debtors Act by the landlord, the Board concerned should make an award in respect of rent dues.

(*vi*) There should be an express provision in the Act that kistibundis of rent dues should never be allowed to extend over a period of 4 years from the date of award, in conformity of the spirit of the circular recently issued by the Government in respect of Court of Wards and khas mahal estates.

(*vii*) A maximum time limit of 3 months should be expressly provided in the Act for concluding an award in respect of rent and cess items of the dues of an applicant before a Debt Settlement Board.

(*viii*) A definite period should be stated in section 52 of the Bengal Agricultural Debtors Act specifying the time within which an action in the civil court shall have to be started after dismissal of the application filed before the Debt Settlement Board.

Q. 87. Agricultural banks may be started as suggested, but due precaution should be taken that they do not hamper the collection of rents by the landlords in any manner.

Q. 88. Most of the Land Mortgage Banks are practically on their last legs, as they have all been hard hit by Debt Settlement Boards.

Q. 89. Measures for speedy realisation of rents are cumbrous, expensive and dilatory. They are also expensive to the tenants inasmuch as the cost is foisted upon them in the long run. Special measures should be adopted to dispose of the rent suits within three months from the date of institution and the zamindar should be granted sufficient opportunity for quick realisation of rent by a modified certificate procedure, if possible, without much cost and harassment. The procedure at present in vogue for the realisation of arrears of rent is unduly harassing to the zamindar and not to the tenants.

Q. 90. So long as the "Sunset Law" for the realization of revenue is enforceable against the zamindars, the summary procedure laid down in the Public Demands Recovery Act should not and cannot be interfered with.

Q. 91. It is certainly desirable that complications in the existing revenue laws should be removed by revising and codifying them in a more up-to-date and simple form in the light of judicial decisions.

Q. 92. (*i*) Modification of "Sunset Law" regarding payment of revenue is necessary. Provision should also be made for suspension of revenue of an estate affected by flood, famine, or other natural calamities.

(*ii*) Payment of arrears of revenue should be permitted to be made in small instalments in deserving cases.

(*iii*) The burden of collecting tenants' cesses should be shifted from the shoulders of the zamindars.

(*iv*) The anomaly between the procedure for realizing revenue from the zamindars by the Government, and the rights given to the latter to realize rent from their tenants should be removed. In respect of this question, both the zamindars and the raiyats should be put on the same footing.

Q. 93. The amended Bengal Tenancy Act has affected the interests of the landlords very severely. They have lost the right of pre-emption, and also the right to landlord's fee in case of transfer which means a loss of at least 10 to 15 per cent. in their income. The Act has hardly done any real good to the agriculturists for whose benefit it was ostensibly brought into operation, while it has deprived the landlords of valued *rights* and *privileges* which they had been enjoying from time immemorial in accordance with the laws of the land and local custom.

The Act savours of an expropriatory character, and is the source of inexpressible hardships to the landlords as a class owing to the highly inequitable nature of its provisions. It would further mean ruin to the entire middle class population of Bengal within a short time if its operation be allowed to continue unchecked.

Tinkering legislation of this kind for meeting political emergencies serves to benefit no class of people and on the contrary merely embitters relationships between landlords and tenants, and bring chaos and ruin to all.

Oral evidence of the Sundarban Landholders' Association, on 27th March 1939.

PRESENT ON BEHALF OF THE ASSOCIATION.

(1) Mr. B. C. Ghose.
(2) Mr. J. K. Ghose.
(3) Mr. N. N. Dalal.
(4) Mr. A. D. Addy.
(5) Mr. P. N. Brahma.
(6) Mr. M. S. Chakrabarty.
(7) Rai Saheb W. C. Dey.

In reply to the Chairman, Mr. J. K. Ghose said that the reply to question 32 refers both to bargadars who supply seed, cattle and plough and those who do not. The Association would not be in favour of

giving occupancy rights to either class. It often happens that when a holding is sold up and made khas the landlord gives it to a bargadar who is responsible for cultivation and receives half of the crop to cover the cost of cultivation. If the average produce is taken at 6 maunds or 6½ maunds per bigha, the value would be Rs. 12 or Rs. 13 of which the bargadar would receive half. All costs of cultivation would not be more than Rs. 4 per bigha even when he employs hired plough, cattle and labour, so that he would get a net profit of Rs. 2 per bigha. When there is a failure of crop he has to pay nothing. The average rate of rent is Rs. 3 per bigha. He agreed that the cash value of half of the crop would be double the rent. As regards the reply to question 37, he said that the Association wishes to restore the landlords' right of pre-emption on the ground that without this restriction purchasers will come in who have no interest in the land or in the protective embankments which are necessary.

As regards the reply to question 52, he agreed that a rent fixed at 1/5th of the gross produce would be higher than the average rent obtaining in the permanently settled area. The lotdars in the Sundarbans with 99-year leases have proprietary rights, and have invested large sums in their lots. They expect a reasonable profit from their investment. The tenants have made such handsome profits from the Sundarban lands that it is only reasonable for the lotdar to get a rather higher rent than in the permanently settled area. (A copy of his calculation showing the profit on capital invested in the Sundarbans was handed over to the Secretary.)

In reply to the Maharajadhiraja Bahadur of Burdwan, he said that in the Sundarbans, jungles were cleared by the lotdars with the help of woodcutters and labourers from Hazaribagh. None of the local people were willing to work as they are not accustomed to live in jungles. After the jungles had been cleared tenants were brought from outside and supplied with food, cloth, etc., at great cost before settlements were effected. Some of the labourers who reclaimed the jungles also got settlement, but no salami was payable for the original settlements.

As regards the reply to question 40, he said he had no knowledge of co-operative farming and the rules for consolidation of holdings in the Punjab.

As regards the reply to question 42, he explained that one pair of bullocks can cultivate 15 bighas. Tenants who have a larger area tend to sell or sub-let the excess land. The purchasers get occupancy rights but have no interest in the land. For that reason he would restrict the area which one tenant could possess.

Explaining the last sentence in the reply to question 5, Mr. Brahma in reply to Mr. B. K. Roy Chowdhury said, the meaning is that

zamindars have been paying income-tax on fisheries, hats, bazars and the like.

He was in favour of giving occupancy rights to persons who cultivate their lands by bargadars or by hired labour.

Mr. Brahma said the idea that the Sundarban landholders are more oppressive than any other landlords is a popular misconception. The police-stations are very distant and cases are not properly investigated. Mr. Dalal said that the landlords have been very lenient: in his own case tenants are in many years' arrears of rent, but if the crop is very bad he never demands rent, and if it is good he is prepared to give kists over 10 to 15 years for the arrear rent. Formerly the relation of landlords and tenants was satisfactory, but this has been destroyed by the krishak movement. The tenants have taken to sending their rents by money order. In one mahal in Hasnabad police-station they sent rent for 1345B.S. only by money order although rent for 10-12 years was due. He now intends to sue them and they will probably appear and ask for instalments. Even if these are granted they will go to the Debt Settlement Boards. The whole trouble is due to agitators whose only object is to screw money out of the tenants. On the whole the landlords have treated the tenants with great consideration and have been very lenient in the matter of bringing rent suits. During the last 50 years sluice gates and water-channels have been constructed and seeds have been distributed in his estate.

In reply to the Chairman, he agreed that tenants find difficulty in paying their rent if they fall into arrears and that it is neither to their benefit nor to their landlords' that they should have large arrears.

In reply to Khan Bahadur A. Momin, he said that the Sundarban estates fall into two classes—those with 99-year leases and those with 40-year leases. In the former case $\frac{1}{4}$th of the area is deducted when revenue is assessed and the revenue is $\frac{1}{3}$rd of the assets in the remaining $\frac{3}{4}$ths of the area. In the 40-year lease estates he was not sure what is the principle of assessment. Possibly a profit of 35 per cent. plus embankment allowance of 5 to 15 per cent.—normally 50 per cent.—is allowed. The lotdars had to spend a great deal of money on reclamation. Formerly their lots were profitable when revenue was only 2 annas a bigha; now they are not very profitable. The rate of rent in his estate is Rs. 3 per bigha but it is not now realised in full owing to the krishak movement and the fall in prices. He did not agree that landlords invested less to clear jungle at the time of the Permanent Settlement than the lotdars did in order to reclaim the Sundarbans. So far as his knowledge goes there must have been a large area of jungle at the time of the Permanent Settlement. In Midnapore and Burdwan the jungles were also cleared by labourers from Hazaribagh,

and embankments have to be maintained. It is true that there was no obligation on zamindars at the Permanent Settlement to maintain embankmens but they did so because it was to their own advantage.

The cost of maintaining embankments in the Sundarbans is 10 per cent. of the assets or even more: in some places it may be even up to 25 per cent. There is a demand for settlement of raiyati land in the Sundarbans provided that no salami has to be paid. There is also a demand for barga land.

He agreed that the right of pre-emption has hardly ever been exercised by landlords in the Sundarbans but the tenants could not transfer their lands previous to the amended Bengal Tenancy Act without the landlords' permission. After 1928 he agreed that they were given the right of transfer but there must have been very few transfers in the Sundarbans judging from the fact that he himself received practically no landlord's fees.

He did not agree that the inaccessibility of the Sundarban areas and the long distance from the Courts are reasons why tenants are liable to oppression: he thought that these were rather to their benefit.

In reply to Khan Bahadur Muazzamuddin Hosain, he did not agree that the permanently settled area where embankments were required is very small. Embankments were necessary in Jessore as well as in Midnapore, 24-Parganas and Khulna.

As regards the reply to question 72, he said that cultivators who have small holdings are compelled to sell their paddy soon after the harvest. The price at that time is rather low (in the month of Paus) but in Magh it is sometimes higher than in Chaitra or Baisakh. During the last five years the average price may be taken as Rs. 1-12 to Rs. 2 a maund. The straw is kept by the tenants. The estimate of Rs. 13 per acre for the cost of cultivation includes the cost of the cultivator's labour but not his rent. Taking Rs. 1-14 as the average price and 18 maunds as the outturn, the gross produce per acre would be worth Rs. 33-12 and the profit Rs. 20-12. The average rent is Rs. 3 per bigha. He did not agree that the price of paddy was ever below Rs. 1-8 a maund. In 1930-32 it may have gone down to that figure but it was certainly not less.

As regards the reply to question 52, he said his own view is that rents should be ¼th of the gross produce and the Association's view is that it should be 1/5th. He did not agree that Rs. 9 per acre is too high a rent for the Sundarbans. When paddy was selling at Rs. 40 to Rs. 50 per Bis (=18 maunds) there was no difficulty in paying rent. It was true that 1/5th of the gross produce would be less than Rs. 9 nowadays, but prices are rising, and if they continue to rise there is no

reason why rent should not be ⅓rd of the gross produce. The estimate of 18 maunds per acre represents the average of good and bad years.

As regards the reply to question 32, he said that the value of a half-share of the crop would be Rs. 16-14 per acre. Rai Sahib W. C. Dey said he would take the price of paddy at Rs. 1-8 or Rs. 1-10 a maund in which case the value of half-share would be Rs. 4-8 or Rs. 5 per bigha. If there is a failure of crops it is true that the bargadar loses, but so does the landlord.

The lotdars are finding difficulty in paying their revenue and in realising their rent on account of the fall in prices and the no-rent campaign. The tenants work only for three months in the year and sit idle during nine months. The lotdars give them employment during this period on embankments. They can do nothing else, and Government has done nothing to employ them. The rate of Rs. 9 per acre was introduced 20 or 25 years ago. It is true that the revenue was originally 2 annas a bigha, but the lotdars have had to pay heavy cesses, and the district boards have done nothing in return. The District Board of 24-Parganas has spent nothing in the Sundarban area on the roads which are kept up by landlords. The landlords have also had to spend a large amount on embankments. In areas where there are no embankments the landlords have had to spend nothing on that account; but it has to be remembered that they have excavated tanks and have sunk tube-wells. He mentioned that in Boral, one of his permanently settled estates, he has sunk three tube-wells. His total revenue is Rs. 59,000 and odd for both permanently and temporarily settled estates. He could not give the percentage of expenditure on improvements separately for each class of estate.

As regards the reply to question 69, he said that rents of raiyats were not enhanced during re-settlement proceedings. The rents of tenure-holders and the revenue of lotdars were enhanced on the basis of the existing assets. The lotdars have found great difficulty in paying the enhanced revenue except in years when there is a bumper crop. It is true that the tenants have to pay rent in bad years, but the lotdars have refrained from bringing suits against them, and have allowed them so much latitude in this respect that it practically amounts to remission.

Mr. B. C. Ghosh mentioned that in one estate in Sandeshkhali police-station he had granted remission of rent, after making careful personal enquiries and that he charges no interest.

As regards the reply to question 71, Mr. Dalal said that he had applied to the Collector (Mr. Graham) for remission of revenue in 1342 B.S. when there was a failure of crops but he did not get any remission and his letter was not even answered.

The size of an average holding in the Sundarbans would be between 10 to 15 bighas. The barga system is common all over the Sundarbans. On a rough estimate, the area held under this system might be 25 per cent.

Mr. J. K. Ghosh mentioned that there are many *baisnab* tenants who would lose caste if they touch the plough. There are also some tenants who own 50 to 60 bighas of land and have to let out the excess area in barga. Then there are lazy tenants who give their land in barga. When their holdings are sold, the land continues to be cultivated by the same bargadars. The system is tending to increase.

In reply to Khan Bahadur Hashem Ali Khan, Mr. Dalal said that practically all lands have been let out to tenants. When the Sundarbans consisted of jungle, tenants were brought in from other districts and provinces. After the land was cleared, the trees were sold at a very low price for fuel. The landlords got the price of the trees. When reclamation was made, land was not settled all at once because tenants could not be found. Some land was retained khas by the lotdars but the major portion was settled over a period of 30 to 40 years.

As regards the reply to question 68, Mr. J. K. Ghosh said that Tauzi No. 3195 was assessed in 1830 and the assessment was revised in 1929 when the revenue was raised to Rs. 2,400; but it was reduced to Rs. 1,112 on appeal, by the Board of Revenue.

Rai Sahib W. C. Dey said in reply to the Chairman that Tauzi No. 1477 was assessed to revenue at Rs. 18,177. This assessment was upheld on appeal by the Board of Revenue and when the Port Canning Company filed a civil suit against Government, the revenue was amicably settled at Rs. 8,726.

All the estates mentioned in the reply to question 68 are estates with 99-year leases, which were revised under the Rules of 1853. Mr. Dalal said that the rate of rent was raised to Rs. 3 per bigha in about 1318-20 B.S. Before that it was Rs. 2 to Rs. 2-8.

Mr. A. D. Addy said that rate of rent in his estate has always been Rs. 2 per bigha. Although there has been a fall in prices, the rate of rent has not been decreased because the revenue was assessed on the basis of the existing rents.

In reply to Sir F. A. Sachse, Mr. Dalal did not agree that the revenue in 99-year estates would be 28 per cent. and the profit 72 per cent. One-fourth of the area was deducted on the ground that no rent could be realised from it and the revenue was assessed on the remaining three-fourths at one-third of the assets. It would be difficult for the tenants to pay their rent if prices continue at a low level, but there is a tendency for prices to go up.

Continuing to Khan Bahadur Hashem Ali Khan, he said that if bargadars are honest and hardworking, they have no difficulty in getting lands, but if not they are changed. A bargadar can cultivate 15 bighas himself. If he had 10 bighas, he would normally get 30 maunds in his share, the value of which might be Rs. 60. In the case of khas lands, the lotdar who had given 10 bighas to a bargadar would have to pay from his share the revenue amounting to Rs. 10; would have to maintain embankments, pay for the seed and maintain a durwan for collection. His profit could not be more than Rs. 30, i.e., Rs. 3 a bigha. Lotdars would not agree to give occupancy rights because they get the produce regularly from their bargadars, whereas if occupancy rights were given, they would not get their rent regularly. They have to keep a certain amount of barga land in order to pay revenue punctually, and to retain some labourers in hand for protective works. He did not agree that the barga system tends to bad cultivation.

As regards the reply to question 82, he said that polygamy does not exist among Hindus but it does among Muhammadans. In reply to Khan Bahadur M. A. Momin, he said that Muhammadan women do not go to fields and it is not correct that Muhammadans marry again and take women to char areas because labourers are not available.

In reply to Dr. Mukherji, he said that at the time of the Permanent Settlement, the Sundarbans consisted entirely of jungle. The rest of Bengal contained a certain amount of jungle but not to the same extent. It is correct that more efforts were needed to reclaim the Sundarban jungle than in the permanently settled area.

Rai Sahib W. C. Dey said that formerly four years' rent had been allowed to accrue, but under the amended Act, the Port Canning Company intends to sue its tenants after every year or two years. The collection is now between 60 and 70 per cent. owing to the development of the Krishak movement.

Mr. Dalal said that revenue was formerly 2 annas per bigha—now it is one-third of the assets calculated on three-fourths of the area. The rent was Rs. 1-8 or Rs. 2 and was raised to Rs. 3 from 1318 B.S. It is true that the revenue was originally very low, but it has to be remembered that the cost of reclamation was very heavy. Formerly not a single lot used to be sold in Revenue Sales: now sales taken place at every kist. He considered that the incidence of revenue, after revision, is extremely high. The fall in prices has affected the tenants' ability to pay and Malaria and Kala-azar have become common throughout the Sundarbans. The price of paddy can only be raised if the import of Burmese rice is stopped. He thought that outturn of paddy of Bengal is even now sufficient for maintaining the people (Khan Bahadur M. Hosain did not agree). Population is increasing, particularly among Muhammadans, and this is the principal reason for fragmentation of holdings.

He would agree to reduction of rents if Government reduces the revenue. He did not think that the lotdars and other landlords would be able to bear any further taxation. If agricultural income-tax were imposed, the landlords as a class would disappear.

In reply to Sir F. A. Sachse, Mr. Dalal said that he owns khas lands which bring in about 10,000 maunds of paddy, if there is a good crop. The area let out in barga varies from year to year. He undertook however to give figures for the last 10 years showing the area of barga land and the amount of paddy received in his share.

Rai Sahib W. C. Dey said that the estimated outturn of 18 maunds per acre had been taken by the Association from the share obtained by the Port Canning Company for their barga lands.

Mr. Dalal said that tenants who work on embankments are paid by the lotdars. The cultivators would never work without payment. Labour is not always available on the spot. If a breach occurs in an embankment, the repair has to be made immediately, because the estate may be inundated with the first rise of the tide. He mentioned that in one of his estates, a breach occurred which could not be immediately repaired and as a result he had to spend Rs. 25,000 in rebuilding the embankment.

He agreed that a number of bargadars are persons who formerly had raiyati lands and have been sold up, but there are others who were formerly bargadars holding under tenants who have been sold up. After the sale the landlords have retained the same bargadars. As a rule bargadars are always supplied by their landlords with seed. They do not therefore require agricultural credit—but they may need in case of purchase of cattle or plough.

As regards the reply to question 64, he agreed that the thika system is illegal under the provisions of the Bengal Tenancy Act. The thikadars are however regarded as labourers and not as tenants, because the landlords who make thika settlements do not grant them any rent receipts.

In reply to the Secretary, he agreed that landlords, in order to avoid the Tenancy Act, make thika settlements with persons who are not settled raiyats. Continuing to Sir F. Sachse, he said that the labourers who reclaimed the Sundarban jungles got settlement in many cases. Then tenants came from Midnapore and other places and became domiciles.

He agreed that on the average the lotdars collect at least half the assets. He estimated that the collection would be between 50 to 75 per cent. of the assets.

Sir Frederic Sachse pointed out that if the revenue after re-settlement is Rs. 2 to Rs. 2-8 per acre and out of the rent of Rs. 9 per acre as little as Rs. 5 is collected, there still remains a profit equal to the revenue. Mr. Dalal did not agree that there was any such profit. He said that lotdars make profit in good years and no profit in bad years.

Sir F. A. Sachse enquired whether, if the State were to purchase the Sundarban Lots, the lotdars would agree to 40 per cent. deduction from their profits on account of management and maintenance of embankments. Mr. Dalal said he could not reply off-hand.

In reply to the Chairman, Rai Sahib W. C. Dey said that the Port Canning Company is a limited Company. The highest dividend it has paid is 5 per cent. Last year the dividend was 3 per cent. with 1 per cent. bonus on every share. In early days, there was no profit. A dividend of 4 per cent. has been paid since 1906 when the price of paddy rose. The cost of management, including embankments, is 32 per cent.

In reply to the Secretary, Mr. Dalal said that the "no-rent campaign" is far from being a bogie as Mr. Bankim Mukherji had described, but a reality. It has seriously affected the collection in areas where the agitation has been in force. (Some figures were supplied, and the Association undertook to supply others.)

As regards the reply to question 65, he explained that by "greater security to tenants under Government estates" he meant that the procedure for re-settlement under the Tenancy Act is inequitable, and that all disputes should be decided by the Civil Courts. The whole procedure should be removed from the control of the Board of Revenue.

The Secretary pointed out that in the past, high contractual rents had been retained by the Settlement Department on the assumption that they could not be reduced under section 38 of Bengal Tenancy Act and enquired whether the Association thought that such rents could, and should be reduced, provided that a proportionate decrease is made in the revenue. Mr. B. C. Ghosh replied that high contractual rents exist under chakdars and not under lotdars. Mr. Dalal mentioned that in his own estate, rents have recently been reduced to Rs. 6 an acre by the Settlement Department and he proposes to appeal against this to the Director of Land Records and if necessary to the Board of Revenue. In his view, high contractual rents should not be reduced.

Reply by the Manager, Paikpara Raj (Kumar Bimal Chandra Sinha).

Q. 1. It is perhaps necessary to emphasise at the very beginning that it may not always be safe to rely only on the text of Regulation I of 1793 and to ignore all relevant official declarations and records. For what is necessary at the present moment is not as much a *strict* legal interpretation of the Regulation I of 1793 as a real understanding of the objects of the framers of the Permanent Settlement. The issue should obviously be an economic one; and the present policy should be determined not merely by reference to the *latter* or of the Regulation, but by taking into account the *intention of the then* officials as revealed through *Regulation I of 1793* and other Regulations passed on the same date or *later on* and other *official* documents, as also in *conformity with the present economic needs of* the country.

I generally agree with the objects stated in question 1 inasmuch as Regulation I of 1793 states in Article VI that—

> "from the earliest times until the present period (i.e., 1793) the public assessment upon the land has never been fixed, but that according to established usage and customs, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm or to appoint officers on the part of Government to collect the assessment immediately from the raiyats. And the Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country have, with a view to promote the future ease and happiness of the people, authorized the foregoing declaration; and the zamindars, independent talukdars and other proprietors of the land, with or on behalf of whom a settlement has been concluded, are to consider these orders fixing the amount of assessment as irrevocable."

But I do not consider the description to be sufficiently exhaustive. It should be noted that the object of the Permanent Settlement, as stated in the passage quoted above, is not only to get rid of frequent investigations for ascertaining the actual produce of the soil, but also to put

a stop to the current practice of depriving the zamindars of the management of their lands and so on. In fact this conclusion is supported by Regulation I itself for in Article IV we find this clear declaration—

> "The lands of zamindars, independent talukdars, having been held khas or let in farm in consequence of their refusing to pay the assessment required of them, the Governor-General in Council now notifies to the zamindars, whose lands are held khas, that they shall be restored to the management of their lands."

In fact if getting rid of frequent investigations was an object of the Permanent Settlement, restoration of old rights then destroyed, was another object of no less or perhaps of greater importance. In fact, this can be traced even in Pitt's India Act of 1784. Pitt in moving the Bill said (*vide* Parliamentary Debates, 6th July 1784) that another object of investigation was the titles of the landholders to land, and Sir Philip Francis speaking on the same date declared that he highly approved of the clause enacting that the Government should not alter the rents, while Mr. C. J. Fox stated that "in regard to the second part of the Bill, consisting of the Regulations, I think and always did, that the zamindars and polygars ought to be restored to their possessions and that the rents should be fixed and settled by a rule of past periods and not of future enquiry." The Act of 1784, next, laid down that:

> "Whereas complaints have prevailed that diverse Rajas, zamindars have been unjustly deprived of, or compelled to abandon and relinquish their respective lands, jurisdictions, rights and privileges and, whereas principles of justice and honour of this country require that such complaints should be forthwith enquired into, and fully investigated and, if founded on truth, effectually redressed; Be it therefore enacted that the Court of Directors shall take the said matters into their serious consideration—and according to the respective cases of the said Rajas, zamindars give orders to the several Governments and presidencies in India for effectually redressing all injuries and wrongs which the said Rajas may have sustained unjustly and for settling the permanent rules by which their respective tributes shall be in future paid to the Company."

And this was followed by a despatch of the Court of Directors on 12th April 1786 (*vide* Second Report from Select Committee, 11th May 1810) which clearly confessed that "the condition of the various descriptions of the landholders throughout our provinces has been brought under the consideration of Parliament in a manner that has produced much reproach against the British Government in India." It is useless to quote more authorities on this topic; it is perhaps now

clear that along with the abandoning of frequent investigations restoration of the rights of the then landlords was also an important object of the Permanent Settlement—"to place the revenue paying agency on a definite footing" as Mr. F. D. Ascoli describes it in his Early Revenue History of Bengal.

In the next place, it is a fact, which it is difficult to deny that one other object of the Permanent Settlement was to secure a minimum revenue for the Government. And this is quite evident not only from the text of Regulation I of 1793 but also from other official declarations and correspondence. I would like to draw attention in this connection to paragraph 6, Article 6 of the said Regulation which runs thus:—

> "He (Governor-General) further expects that without deviating from this line of conduct, they will regularly discharge the revenue in all seasons," failure to do which would lead to a sale of their lands. In fact that this was one of the main objects from the Government point of view is evident from the following facts as narrated by the Taxation Enquiry Committee in their Report:—
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> "The East India Company, at first, attempted to administer the revenue through supervisors. The attempt however failed and the Company decided to undertake a more direct measure of control. The revenues were farmed out for five years, and Collectors, with whom were associated Indian Diwans were appointed to receive them. The older zamindars were not however replaced by other farmers where they refuse to contract for the sums demanded. Owing to a variety of circumstances this system also was unsuccessful, meanwhile in 1786 Lord Cornwallis had arrived in India, and caused elaborate enquiries to be made and rules were issued between 1788 and 1790 for a Decennial Settlement. He recommended however that instead of this a Permanent Settlement should be introduced, and in 1793 his suggestion was acted upon and steps were taken for a Permanent Settlement under a Regulation which was issued in the same year."

And I refer to the following authorities in support of my view:—

(1) Shore in his great Minute of 18th June, 1789, remarks in paragraph 98 that "it has been the object of this Government to raise as large a revenue as it could without distress to its subjects." He further remarks in paragraph 197 of the same Minute that "that in making a settlement for a term of years with the zamindars, we rely on the strongest of all principles, by uniting the interests of our subjects with that of Government; that this mode affords Government the only substantial security for the revenues, by making the property of the

lands responsible for it." He further remarks in paragraph 283 of his Minute that "if the object of our present deliberations were only to obtain the highest possible jama, without regard to the *permanency of our arrangements* (italics mine) we should then relinquish the principle of concluding engagements with the zamindars altogether and attempt to secure it by other modes."

(2) Sir William Hunter in his Introduction to Bengal Records, Vol. I, p. 15, mentions that before 1793 "the collection of the land revenue led to yearly struggles between the local authorities and the territorial native magnets: struggles, not always confined to chicanery, falsehood, and flight on the one side, not to the utmost exercise of civil rigours on the other. Before the end of the period (i.e., 1807), the Permanent Settlement with all its defects had rendered the collection of the revenue a matter of routine. The Permanent Settlement of 1793 is justly regarded as a revenue measure."

It is to be mentioned in conclusion that besides these two objects, there was yet another object, which though not definitely mentioned in Regulation I of 1793, was nevertheless in the minds of its authors; and that object was the stability of the Government. We find a detailed discussion on this point in Shore's Minute of 18th June 1789[1], where he explicitly remarks that "in making a settlement for a term of years with the zamindars, we reply on the strongest of all principles by uniting the interests of our subjects with that of Government" and he further remarks in paragraph 257 of the same Minute that "the surest way to retain our dominion in Bengal is by establishing a system of government calculated to promote the happiness of our subjects, by affording them security in their property, relief from oppression, and a reasonable indulgence to their prejudices."

I now pass on to the "quid pro quos" mentioned in question 1. While I agree with the three items mentioned in this paragraph I do not think that the word "quid pro quo" gives a happy description of the situation at that time. For the term implies something like a contract which presupposes the existence of two willing parties, it also further implies that if any party fails to observe any of the pledges laid down the rein, the contract would be null and void. This, I believe, would not be a true interpretation of Regulation I of 1793. For it was repeatedly argued by the officials at that time that nothing save a sense of complete security would encourage the extension of cultivation and the improvement of land. For example, Lord Cornwallis in his Minute of 18th September 1789, in criticising Shore's Minute remarks that "if the value of permanency is to be withdrawn from the settlement now in agitation, of what avail will the power of his arguments be?" For according to Lord Cornwallis "Permanent Settlement alone can make

[1]Fifth Report (Firminger's edition), Vol. II, pp. 47-52, para. 197-214.

the country flourish." Thus what is important is the fact that the framers of the Permanent Settlement realised it quite well that what was necessary was to create an atmosphere of security and as Sir William Hunter remarks in his Bengal Records, Vol. I, "after long deliberation, they decided that it was good policy to surrender their claims to any future increase of revenue." Now the assumption that the settlement was in the nature of a contract cuts at the very root of the sense of security which the framers of the Settlement tried to develop. For this reason, Lord Cornwallis declared the settlement permanent without any "quid pro quo" whatsoever, though he declared that he *trusted* (italics mine) that the zamindars would perform such and such duties. *It was* a wish no doubt but not a condition precedent or a "quid pro quo" in any legal sense of the term.

The last paragraph of question 1, viz., whether *the* Permanent Settlement took away any existing rights from the tenants, I take up with question 4 and question 24.

Q. 2. There are two distinct parts of this question, viz., did the Permanent Settlement convey any power to the zamindars (*a*) to choose his tenants, and (*b*) or to regulate the uses of the land to the economic interest of the province? I shall take up the latter portion first.

It has been already pointed out that Bengal at that time was covered largely with jungle and it was necessary to develop her latent resources. And the Permanent Settlement in this sense was definitely an economic measure. The suggestion will not be wide of the mark that the landholders were declared *proprietors of the soil in the belief* that without this absolute *right the landholders* would not be able to regulate the use of land in the economic interest of the province. Lord Cornwallis, for example, categorically wrote as follows:—

"A permanent settlement, alone, in my judgment, can make the country flourish, and secure happiness to the body of the inhabitants.

Where the landlord has a permanent property in the soil, it will be worth his while to encourage his tenants, who hold his farm in lease to improve that property; at any rate he will make such an arrangement with them as will prevent their destroying it." (Minute, Sept. 18, 1789.)

Shore, similarly, condemned the ijara or the farming method and advocated settlement with the zamindars only on the ground that a temporary farmer would never look to the future improvement of the estate. (*Vide* his Minute, June 18, 1789, para. 164.)

But this power of regulation it must be made clear, was not without certain limitations. These limitations arose mainly out of the existing

customary rights of the tenants, especially the khudkasht raiyats. The question is discussed later in my reply to questions 4 and 24.

The first part of the question is much more complicated. The right to choose one's own tenant is the logical consequence of absolute ownership of land. And though this is not definitely mentioned in Regulation I of 1793, still it is not difficult to find traces of this in the Regulation itself and in subsequent enactments. For example, Article VII of the Permanent Settlement Regulation in general and specially the words that "those who from their situation are most helpless" can have no meaning if it does not presuppose absolute power of the landlords. Later on, the right of pre-emption was given to the landlords because it was thought that they as actual proprietors of the soil should have the power to choose their own tenants. It may be mentioned here that the extreme form of this right was proposed in the Draft Bill passed by the Rent Law Commission which reported in 1883, when it was contemplated that the landlord must be informed before—(and not after) any transaction or transfer taken place. Thus it was a real pre-emption and not a 'post-emption' as was subsequently adopted. Anyway, all these measures go to show that the landlord had the right to choose his own tenant.

Q. 4, Q. 24 and the last part of Q. 1. For the sake of convenience I take up these allied questions together. We have first to discuss whether the landlords were only collectors of revenue before the Settlement or actual proprietors or whether the cultivators were actual proprietors and we have also to find out whether Regulation I of 1793 took away any existing right of the tenants.

Any discussion of the respective rights of the landlords and the tenants in the pre-Permanent Settlement days should cover not only the few years just preceding it but a longer period, for the years just preceding the Permanent Settlement constituted an era of chaos and confusion characterised by ruthless sacking by the revenue authority and rack-renting by the landlords. But the trend of Hindu jurisprudence seems to confirm the belief that in ancient times the State was not the proprietor of the soil inasmuch as the Government was content with a certain portion of the grain (ধান্যানামষ্ঠমো ভাগো যষ্ঠ দ্বাদশ এব বা—মনু ৭). Land then seemed to belong to those "who cut away the wood or who cleared or tilled it" (Manu, IX. 44). Revenue, we find, was then collected by a hierarchy of local headmen, almost similar to the present hierarchy, who received a certain portion of land free for the service they rendered (Manu, VII). During the Moghul period also, the State never claimed to be the proprietor of the soil and it was the zamindar, or the landlord who was allowed to have a free hand in internal management as long as they paid a tribute to the Imperial Government. It is needless to repeat here how the landlords had their own police and jails and disposed of cases themselves and so on. As Ascoli remarks, during the Moghul

period all offices had tended to become hereditary, and accordingly permanent, and the history of zamindari development in Bengal clearly shows that the zamindar was removable only by force or fraud. All this goes to show that the landlords were not mere collectors of revenue. They were almost like feudal chiefs, with absolute right in land, and the Government was content with some tribute only.

That this was the existing state of affairs will also be evident from the principles of revenue settlement followed during the Moghul reign. Todar Mal, it may be pointed out here, devised his settlement of Bengal called the tumar jama which fixed a standard rate of assessment, the rate being a certain share of the produce. And it must be very carefully noted that this asul tumar jama or the standard assessment proper was never set at nought by subsequent revenue officers. The rate being unaltered, revenue could only increase with any increase in the area of cultivation or from increased population. As Shore remarks in his Minute of 18th June 1789, "the principle of Moghul taxation as far as we can collect the institutes of Timur and Akbar, from the ordinations of the Emperors, and the conduct of their delegates however limited in practice, were calculated to give the Sovereign a proportion of the advantages arising from extended cultivation and increased population. As these were discovered, tumar or standard assessment was augmented; and whatever the justice or the policy of the principle might be, the practice in detail has this merit, that it was founded upon a knowledge of real and existing resources" (paragraph 30). It was for this reason that "from the era Todar Mal in 1582 to that of Jaffar Khan, an interval of 140 years, the increase added to the assessment of Bengal, amounted to Rs. 24,18,298 only" (*ibid*, paragraph 13). And when subsequently the Govornent was in need of money it did not alter the tumar jama or the standard assessment, but added abwabs to it. The system was in fact an exact parallel of conditions existing now in Bengal—a permanently fixed revenue with cesses imposed on it for additional requirements. For as Shore remarks "they (the abwabs or viceroyal imposts) were in general levied upon the standard assessment in certain proportions to its amount and the zamindars who paid them were authorised to collect them from their raiyats, in the same proportion to their respective quotas of rent."

Now it is not our point here to discuss the merits or otherwise of the system. What I want to emphasise is this: Of all these revenue arrangements, one fact stands out clearly and that fact is that the zamindars were not merely collectors of revenue but something more than that—they were, for all practical purposes, the actual proprietors of the soil. For had it not been so, the abwabs or cesses would not have been levied on them but on the raiyats direct and collected by the zamindars, these latter receiving at best a certain commission only. The very fact that the standard assessment or the asul tumar jama

was nearly fixed during all the financial operations from 1722 to 1755 (*vide* Shore's Minute of June 18, 1789, paragraph 46) and that zamindars were held responsible to the Government for the payment of abwabs and other subsequent imposts, and not the raiyats, clearly proves that the zamindars were not mere collectors of revenue.

Subsequent developments however seem to disprove this contention. It is often pointed out that arrest of and oppression on the zamindars at the time of Jaffar Khan and their dismissal subsequently, specially during Cossim Ali Khan's administration and the early days of the Company point to a contrary tendency. Thus writes Shore in his Minute referred to above:—

"The severities inflicted upon renters in arrears, and upon the zamindars to compel them to a discovery of their resources, were disgraceful to humanity; and as if personal indignities and tortures were not sufficient, the grossest insults were offered to the religion of the people." (Paragraph 15.)

But whatever may be the oppression arising out of the mercenary motive of the then Government, the Muhammadan Government had at least some respect for these ancient rights. For it is remarked in the Fifth Report:—

"Under whatever degree of adversity the zamindars might fall, or whatever might be the extremity, or injustice, or cruelty practised on them, they had still the consolation of preserving their rank and of being considered as zamindars. They themselves might come under the displeasure of the Government, and experience its severities, but their families would still maintain the consideration due to their station in society, with the chance of recovering, in more favourable times, possession of their zamindaris. Hence it appears, that even in cases where the zamindar, from rebellion or other misconduct was deemed deserving of death, the succession of a near relation or of an infant son, or of a widow placed under tutelage, was generally deemed preferable to the introduction of a stranger to the possession of the zamindari."

It may be pointed out in conclusion that the Company actuated by purely mercenary motives could not have any regard for this custom and initiated the policy of letting out zamindaris in farm for one year, two years, and five years and so on; of dismassing the zamindars and excluding incompetent ones; of disqualifying the zamindar to transfer or sell the zamindari without the sanction of Government and so on—a policy which was characterised in the Preamble to Pitt's Regulating Act of 1784 as "derogatory to the justice and the honour of this country" (England)—a policy which ultimately resulted in the restoration of these rights by Regulation I of 1793.

Thus the conclusion arrived at from the foregoing discussion is this: The landlords had certain definite rights before the Permanent Settlement; during the Moghul rule, the practice of free internal management, of maintaining police and holding Courts of justice, and finally the principle followed in revenue assessment—all lead to the conclusion that the landlords were for all practical purposes proprietors of the soil, whereas the State was content with a certain share only. But subsequently—and specially during the period just preceding the Permanent Settlement—the dual Government resulted in irresponsible exactions with a consequential disregard for these rights coupled with a total lack of consideration for national welfare—an evil which was sought to be remedied by Regulation I of 1793.

But though it was one of the objects of the Permanent Settlement to restore some of the rights the landlords possessed before, still it is an undeniable fact that in doing so it did take away some of the rights of the tenants. It has been mentioned in various official documents, including the Minute of Sir John Shore and Despatches by Lord Cornwallis to the Court of Directors that there existed at that time two definite classes of tenants:—(1) khudkasht, i.e., resident tenants, (2) paikasht, i.e., non-resident tenants. While paikasht tenants (i.e., tenants cultivating lands belonging to a village where they do not reside) were regarded as mere temporary sojourners and therefore tenants-at-will, khudkasht or resident tenants had much greater rights. Thus writes Shore in his Minute of June, 1789—"It is, however, generally understood that the raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed; but this right does not authorise them to sell or mortgage it and it is so far distinct from a right of property. In every district throughout Bengal, where the license of exaction has not superseded all rule, the rents of the land are regulated by known rates called nirik, and in some districts, each village has its own, these rates are formed with respect to the produce of the land, at so much per bigha" (paras. 388-391)—(Firminger's edition of the Fifth Report, Vol. II, page 84). And he further writes in para. 406 of his Minute, "pattas to the khudkasht raiyats, or those who cultivate the land of the village where they reside, are generally given without any limitation of period, and express that they are to hold lands paying the rents from year to year. Hence the right of occupancy orginates; and it is equally understood as a prescriptive law that the raiyats who hold by this tenure cannot relinquish any part of the lands in their possession or change the species of cultivation without a forfeiture of the right of occupancy which is rarely insisted upon. I understand also that this right of occupancy is admitted to extend even to the heirs of those who enjoy it. But though the title is hereditary the raiyat cannot sell or mortgage his land. Paikasht raiyats hold their lands upon a more indefinite tenure—the pattas to

them are generally granted with a limitation in point of time and where they deem the terms unfavourable, they repair to some other spot."

Now it is clear from the quotation that khudkasht tenants had certain very well-defined rights agreed to by the landlords in their pattas. And it is my strong conviction that though the framers of the Permanent Settlement never meant to destroy these rights and tried to provide for some safeguards, yet their arrangement proved a total failure and in effect Regulation I of 1793 did take away the existing rights until an attempt was made to revive them in 1859. And this contention is supported not only by official documents but also by the fact that such an apprehension arose also in the mind of the framers of the Settlement. For example, this is explicitly mentioned in Shore's Minute containing provisional rules and a permanent plan for the security of the raiyats and in Lord Cornwallis Minute of 3rd February, 1790, and also in despatch to the Court of Directors, dated 6th March 1793[1]. And not only was this a mere pious wish. That Lord Cornwallis actually had proposed some safeguards is clear from the fact that Regulation VIII of 1793 contains certain provisions (*vide* sections 54-55) for the khudkasht tenants defining under exactions and also making it obligatory on the landlords to issue pattas to the tenants defining their rights (vide sections 56-60). But as it is needless to point out now, these proved a total failure, and ultimately the Rent Act of 1859 had to be passed for remedying the evil.

We are not here concerned with tenure or tenancy. The sole point that emerges from this discussion is this:—that the khudkasht tenants had certain well-defined rights before the Permanent Settlement, and Regulation I of 1793, in making the settlement with the landlords did not lay down any rule for safeguarding them; and though an attempt was made at that time to safeguard these in an indirect way, these safeguards proved to be utter failures and the apprehensions of Lord Cornwallis about "all classes of people and more particularly those who from *their situation are most helpless*" (italics mine), as revealed in Article VII of Regulation I of 1793 came true. And the result was the long series of legislative measures beginning with the Rent Act of 1859 and culminating in the Bengal Tenancy Act of 1885.

Q. 5. It is not difficult to find a good number of declarations and assurances by competent authorities that Permanent Settlement is not

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[1] "From the proceedings which we shall forward to you by the next despatch, you will find that we have anticipated your wishes respecting pattas to be granted by the landlords to the raiyats. It is with pleasure we acquaint you that throughout the greater part of the country specific agreements have been exchanged between the landholders, have bound themselves to prepare and deliver them by fixed periods. We shall here only observe that under the new arrangement, to which we shall presently advert, the raiyats will have always the power to compel an adherence to these agreements by an appeal to the Courts of Justice whenever the landholders may attempt to nfringe them." (Paragraph 20).

to be set aside at any time. In fact in my opinion it was a solemn pledge on the part of the Company. This is evident not only from the minutes, letters and speeches both in India and in England, but also from the fact that the framers of the Settlement seriously believed that it was not possible for them to have a stable Government or to develop the country without fostering an atmosphere of security which a Permanent Settlement was expected to create. Nor is there any reason to believe that the Company contemplated of any financial sacrifice. It was a revenue measure which benefited them immensely. For instead of the uncertain revenue of previous years† the Company now ensured a minimum revenue for themselves. The Company's share constituted 90 per cent. of the capacity of the raiyats to pay—a percentage which would possibly be deemed as inordinately high even by modern standards. Thus there is no reason to suppose that the Company did not give a solemn pledge, specially when the measure taken not only did not entail any sacrifice on their part—but positively benefited them.

But though it was a solemn pledge, it is also my conviction that the tenants were no party to the Settlement. It may not be a wild conjecture to say that it was not possible for the Company with the insufficient data and a hardly stable government to bring in tenants into the picture, and a settlement with zamindars alone presented a number of difficulties which it was difficult to resolve. But difficult or not difficult, it cannot be denied that the tenants and their status were left undefined and rights not safeguarded by any statutory provision.

As regards the last part of the question, i.e., whether this was a measure which permanently crippled the financial resources of the country, I would submit that I do not find any particular relevancy of discussing that question here and I propose to discuss it under question 11. I do not, further, find any sound reason for laying undue emphasis on this question of a pledge—or in fact on the planning of future policy on the interpretation of the Regulation both historically and legally. I do realise that it is a dangerous game to trifle with Government pledges for that may not only involve the country into chaos and confusion but may lead to a disruption of stability and order

†I give here only one example and this will show how the revenue fluctuated between wide margins:—

Rungpoor.

Bengali Year.	A.D.	Rs.
1169	1762-63	11,29,324
1171	1764-65	5,09,182
1175	1768-69	9,11,789
1178	1771-72	11,01,743
1181	1774-75	7,95,298
1188	1781-82	9,47,188
1193	1786-87	7,39,244

Vide Shore's Minute of 18th June 1789, Para. 99, page 25, Vol. II of the Fifth Report, Firminger's edition.

of society and consequently of the very basis of Government itself. And I also do not suggest a complete break from the past for that is likely to give a rude shock which is not likely to be advantageous to anybody. But that is no reason why any Government should not be in a position to introduce gradual changes conducive to the welfare of all and be strictly bound by the letters of a declaration made in a period when the economic situation was altogether different from that at present. Such a static policy would be directly opposed to the dynamism of a living society. Supposing that the tenants were made parties in 1793, there is no reason why the Government should not make any change for remedying present defects; or even if the Government had given no pledge, it is no sound logic to argue that the Government must change its policy now and then, when a particular policy, followed over a number of years is expected to serve the needs of the country best. The Settlement, in my opinion, was the only arrangement possible at that time, and it answered well the needs of the Company and to some extent the needs of the country also. The pledge was given for fostering an air of security; it has been maintained for a peroid long enough for that purpose. And if the possibilities of the pledge have not been fully realised in a century and a half, it would, I think, be very difficult to realise them within any length of time. What I do emphasise is that we should look at the question not with a lawyer's eye, but with a wider vision; and future policy relating to land tenure and tenancy should be determined not by a strictly legal interpretation of Regulation I of 1793, but according to the principles of equity and social justice, not inconsistent with the policy followed by the State in other spheres, in accordance with the present economic conditions and the resources of the Government to tackle them.

Q. 6. The extension of cultivation has been mainly due to the increase of population. It may be mentioned that in 1872 the total population of Bengal was 34·5 millions and has now risen to 51·1 millions of whom above 70 per cent. even now depend on agricultural occupations. This large increase in population and specially of agricultural people is no doubt responsible for a large increase in the area of cultivation. And it is being argued by some writers on agricultural economy of our country that a decline in the density of population in some of our older tracts and an increase of it in the active delta of East Bengal is a positive sign of the last stage of agricultural economy and the first sign of the approaching moribund condition of the other tracts. Whatever may be the truth in this contention we can safely say from a commonsense point of view that there has been very great increase in population and that this increase is mainly responsible for the increase in the area of cultivation.

Regarding the second and third points, it may be remarked that no broad generalisation is possible, for it is not very difficult to find

instances of increases in the cultivated area due to the enterprise of the tenants or to the initiative and assistance of the zamindar. For example, it is not altogether impossible to catalogue a long list of sums spent by zamindars for agricultural development or of embankments constructed by them in different districts of Bengal—and it must be admitted that in this sense they have helped in the growth of agriculture. But it is perhaps also necessary to confess at the same time that such attempts were more or less perfunctory and un-co-ordinated in their character. There has not taken place in Bengal any systematic and well-planned programme of agricultural expansion undertaken either by the zamindar or by the tenant. And though there might have been large sums occasionally spent, there can be no doubt about the fact that a lack of systematic development characterised the growth of agriculture in this province. Future policy in this case should naturally be directed towards remedying this evil and linking all such attempts together into a systematised and well-co-ordinated plan.

Q. 10. Regarding the first part of the question, I think that the Settlement was in the interest of the country economically and for the greatest good of the greatest number. We generally look at the Settlement with a suspicious eye and doubt the sincerity of its purpose inasmuch as it conferred certain rights on the landlords though it did not bestow corresponding rights upon the tenants. But I have already pointed out that with not a very firmly-established Government and supplied with insufficient data, with the wars going on all round and faced with extreme financial stringency, it was hardly possible for the then administrators to do anything more than what they actually did, and the indirect checks which they provided, were in their opinion sufficient for that purpose. Furthermore, they expected that with the economic development of the country and specially with the expansion of agriculture, the people in general would be in the happiest position for "when a spirit of improvement is diffused through the country," as Lord Cornwallis wrote in his Minute of 3rd February 1790[1], "the raiyats will find a further security in the competition of the landholders to add to the number of their tenants." Then again it was also believed that the clearing of jungle land and reclamation of waste lands as a result of the Settlement would bring about expansion of agriculture and thus increase the wealth, not only of a few landlords in the shape of additional income, but of the people in general because of the increase in the national dividend. It may be that all their expectations did not come true; nevertheless it would not perhaps be taking a correct view of the picture, if we believe that the authors of the Permanent Settlement did not take into consideration the welfare of the country or of the

[1]Fifth Report (Firminger's edition, Vol. II), Appendix, p. 532.

people in general, for it may be recalled here that the Permanent Settlement was at that time not relished by the zamindars but was thrust upon them—and as the subsequent default and sale of zamindaris show their fears were not unfounded.

I now come to the second part of the question, viz., whether it has led to a revenue system which is to the benefit of the province. Before coming to the advantages and disadvantages of the system it is necessary to clear certain misconceptions. While discussing the effects of the Permanent Settlement, we should clearly bear in mind that there are certain advantages and disadvantages common to all forms of settlement and there are others peculiar to the Permanent Settlement only; and in any scientific discussion on the topic, there should be no confusion between the two. For example, there is no point in asking as has been done in question 11 whether the Permanent Settlement has created a system of overlordship over the actual cultivators of the soil which is both oppressive and harassing; for this is a charge which can be levelled against any settlement or even against the present arrangement in khas mahal lands.

I shall try to indicate here some of the benefits of the revenue system that has grown up as a result of the Permanent Settlement, reserving the defects for question 11. Any such question should, I think, be considered from at least several aspects. We have, for instance, to consider whether the Government has benefited more under this scheme than under any other arrangement. We should also consider whether the tenants have benefited under this settlement; and also see whether the landlords have benefited more in the permanently settled areas than elsewhere. Finally we have to look at the question from a broader economic and sociological standpoint and find out whether the province has gained anything in particular economically and sociologically from this arrangement.

Looking at the problem from the Government point of view, we find that Government has got certain advantages even now under this arrangement. It is no longer cogent to argue that this settlement is necessary to ensure a minimum revenue for the Government in other provinces too are practically sure on this point and are collecting land revenue with fair regularity. But it may not be perhaps too much to urge—at least from the published figures—that chances of good collection are better in permanently settled areas than elsewhere, at least so

far as Bengal and Bihar and Orissa are concerned. A glance at the following table should make the position clear:—

Percentage of Collection.

Year.	Bengal.				Bihar and Orissa.		
	Permanently-settled estates.	Temporarily-settled estates (Part IIa).	Temporarily-settled estates (Part IIb and c).	Khas mahal.	Permanently-settled estates.	Temporarily-settled estates.	Khas mahal.
1932-33 ..	86·24	..	75·85	31·82	96·59	96·69	70·98
1933-34 ..	88·07	76·30	82·78	27·07	96·89	91·09	66·26
1934-35 ..	90·69	81·59	84·91	25·90	..	..	..
1935-36 ..	92·34	80·32	89·98	42·98	..	..	..
1936-37 ..	94·62	85·54	41·46, 91·47	50·20	..	..	..

N.B.—Figures collected from the Land Revenue Administration Reports.

It appears from the above table that in Bengal while the Government has been able to realise at least 80 per cent. of total demand in the permanently settled areas, the corresponding figure for temporarily settled areas is much lower, and the same figure for khas mahal lands is amazingly low in spite of the operation of the certificate procedure under the Public Demands Recovery Act. The same phenomenon is noticeable in Bihar and Orissa also. This shows that the landlords act as an effective buffer and fluctuations are minimised in the percentage of collection.

Then again it is a fact—though not always a desirable fact—that under the present system, the Government derives some benefit from the additional stamp duty which would not have otherwise been realised. With the long list of intermediate tenureholders and also with different grades of tenants, there is not only a greater number of registered instruments, but also additional litigation with corresponding augmentation in stamp revenue. I do not, of course, imply that this is a desirable state of things, for all things considered there is a net economic loss. Yet, from the narrow Government point of view, this is a gain which should be taken notice of.

Considering the question from the tenants' point of view and discussing whether it has led to a revenue system which has benefited them, it is very difficult to pass any judgment *a priori*. For any scientific discussion should take account not only of the incidence of land revenue per head of population or per acre in permanently settled areas and elsewhere, but also of the incidence of rent in these areas and compare them, fully taking into account areas assessed, income *per capita* and so on. And if it is found on enquiry that the incidence of rent is lower

in Bengal and that the low rate of rent can be correlated to a low rate of revenue, it can be positively urged that tenants have benefited under the Permanent Settlement. But it is not possible now to come to any definite scientific conclusion; we are to proceed on more *a priori* grounds. It is perhaps true that under the Permanent Settlement, tenants derive at least one benefit. While revisional settlements are carried on in other parts for increasing rent in Bengal, revenue being fixed, rent cannot be increased unless there is a corresponding benefit, as laid down in the Bengal Tenancy Act. Furthermore, there is another advantage to which we have drawn our attention before. It is an advantage of the Permanent Settlement—or in fact of any settlement—that the landlords act as a buffer between the Government and the tenant, first, they cannot realise sufficient rent if there is any scarcity or calamity not followed by any suspension of revenue, and thus draw on their reserve funds for payment of land revenue: secondly, under the present arrangement the period of limitation for realisation of rent is three years, and the landlords generally do not want to have any litigation unless it is going to be barred by limitation. Thus the raiyats normally get an allowance for three years whereas it is hardly possible for any Government to leave its dues unrealised for three consecutive years.

Nonetheless, it is a fact that the Permanent Settlement has led to a revenue system which has adversely affected the position of the tenants at least in two distinct ways. It is needless to enphasise here that the Permanent Settlement shares in common with other forms of settlement, the feature of creating a system of overlordship and vested interests; what is peculiar to this particular system is that it has specially facilitated the growth of intermediate tenureholders by legalising the creation of such tenures through subsequent acts by fixing the revenue in perpetuity. This growth of intermediaries has snapped the link between the landlords and the tillers of the soil and has made it possible for many speculators and farmers having no particular interest in land to intervene in between. This profiteering tendency on the part of many whose interests are not bound up with land has worsened the position of the tenants economically and socially and has led to many complications. This long chain of intermediaries often leads to rack-renting, which might not have been so intensive had there been only landlords and no intermediate tenureholders; further, these tenureholders have rendered landlords mere sinecurists and have thus most unjustly relieved them of their duties to their tenantry while not taking these up themselves.

It is generally supposed—and there is a good deal of truth in that supposition—that landlords have had the happiest lot under the Permanent Settlement. In fact, the declaration of their rights in the Regulation I of 1793 made their position firm and secure and vested them with a lot of power. The revenue being fixed in perpetuity and

there being an increase in the rental, the landlords have been reaping greater profits and the absence of agricultural income-tax further has enhanced them. Nevertheless, the Permanent Settlement is not without its defects even from the landlords' point of view. For the first thing that requires emphasis is the fact that the incidence of the Settlement is not equal throughout Bengal; a regional study is imperative on this point. The incidence of revenue is plainly higher in West Bengal than in East Bengal and it is not unnatural to find the rates of West Bengal even higher than those prevailing in other temporarily settled provinces. From my personal experience I can say that the Paikpara Raj estate (Senior Section) page 63 per cent. of its Sadar jama as land revenue for its properties in the Birbhum district, 33 per cent. on its Sadar and mufassal jama in the district of Murshidabad and 55 per cent. on its Sadar and mufassal jama in the district of 24-Parganas. It may be mentioned here that the percentage of land revenue to rent is fixed by settlement rules at 55 per cent. generally in United Provinces and Orissa and the landlords have the right to get redress from the Court if the percentage rule is not adhered to. This proves that the Permanent Settlement is not an unmixed blessing from the landlords' point of view and the Government enjoys an advantage in this matter as well, inasmuch as any fixation of revenue on a uniform basis may lead to a decrease in revenue.

But the most important point regarding Permanent Settlement lies in the fact whether it has led to a revenue system which has benefited the province from a broad economic and sociological standpoint. And in this sphere the problem is a complicated one. It would not be difficult to find landlords spending large sums on works of public utility; yet what is a characteristic defect of their gifts is that any considerable portion thereof is not spent in capital improvement of land. It is a sad fact that the proportion of the money spent for the improvement of their estates in comparison with that spent for charity or other beneficial purposes is regrettably small. Nonetheless, the country has so long gained at least one benefit from the revenue system which has developed in this province and that gain is to be found in a large sums spent on charity and in a steady supply of capital to new ventures, industrial or otherwise and in capital improvements too, however small. Thus the pioneer work has been done with the help of the landlords and in the absence of proper banking habits and industrial enterprise, the landlords have proved and we are likely to prove to be an effective source of capital. Then again, as already pointed, the land revenue system has acquired an elasticity in times of crisis and the incidence is spread over a number of people thus minimising the burden. And finally, the revenue system which has grown as a result of the Permanent Settlement has hitherto and is still supporting a large number of people than elsewhere, beginning with the landlords at the top and ending with the

tillers of the soil; and this large number of people has in their turn given employment to a still larger number of officers and employees; and these in their turn have resulted in additional income for many professional classes, specially the lawyers. It is like a snowball, gathering snow as long as it rolls on. It is of course true that this has led to extreme pressure on the soil; but so long as other avenues of employment are not found in industries and elsewhere—and we cannot industrialise Bengal overnight—we have to depend on some sort of employment rather than go unemployed, and the Permanent Settlement has benefited the country in this direction.

Any serious student of the sociological and cultural history of Bengal cannot but recognise the gifts of the revenue system in this direction. The system, we have emphasised over and over again, gave rise to small middlemen popularly styled "the middle class" of Bengal. It is rather difficult to deny that so long this middle class has been the backbone of Bengali culture. The chief credit goes to this class for the cultural advance that we have made in this province as well as for the new ventures in every aspect of life. And the landlords have done an effective service to the country, if not by actively participating in the promotion of culture through their own writings, at least by drawing around them the luminaries of the time and providing a forum for discussion, literary or otherwise. This is, of course, a benefit which cannot be measured in terms of pound, shilling and pence; but this is an aspect of life which any living people can hardly ignore.

Q. 11. I have tried to indicate some of the advantages and incidentally certain defects of the Permanent Settlement and the revenue system growing therefrom in my reply to question 10. But that was not the place for mentioning the defects. I, in general, agree with the defects mentioned in question 11 though I fail to understand how the Permanent Settlement led to the subinfeudation of tenancy. For as we have pointed out elsewhere, Regulation 1 of 1793 did not even recognise under-tenures; and one of the grievances lies in the fact that the tenants had no place in the said Regulation. In these circumstances it passes my comprehension how the said Settlement and not the tenancy laws can be held responsible for subinfeudation not even of tenure but of tenancy. It has however to be pointed out here that some of these defects are common to all forms of settlement—and I am referring specially to the last point. For this is a criticism which can be levelled against all forms of settlement, permanent or temporary or even against the Government so far as khas mahal lands are concerned. Any criticism on this point should not only assail the Permanent Settlement but also other forms of settlement including the present arrangement in Government-owned lands.

Q. 12. My grounds for assailing the Permanent Settlement do not completely tally with those mentioned in the previous question for the defects are in my opinion not only three in number. In my reply to question 10, I pointed out that several advantages are enjoyed by the Government in this province; but the disadvantages are to be found not only in the amount intercepted by the landlord but also elsewhere. A greater defect from the Government point of view—or as a matter of fact from the point of view of national welfare—lies in the fact that under the present system there is no provision for rational steps against the defects of our agrarian economy. The only object repeatedly mentioned in the 18th century literature on this topic is the clearing of jungle and certain similar developments. But nowhere can we find any idea if not planned agriculture, at least of statutory provisions for the improvement of the agricultural industry as well as of the countryside. In fact the whole basis is inherently utilitarian and capitalistic depending largely on private initiative. Nowhere do we get a clearer example of this than in the construction of Article 7 of the Regulation I of 1793 as well as in the provisions in Bengal Tenancy Act for the enhancement of rent (sections 7 & 30). It was expected in Regulation I of 1793 that a fixed revenue would encourage the landlords to improve their land for additional gain; and the same spirit pervades the sections referred to above. But besides these indirect ways of encouraging a policy of agricultural development, the Government has nowhere up till now adopted a direct way of compulsory agricultural development on any large scale. Thus the Permanent Settlement is responsible not only for this policy of drift in an industry so vital to our province—viz., the agricultural industry but also for the creation of a large number of vested interests and legislative definitions of their rights thus leaving no room for Government interference in the interest of the country.

Reviewed as a sociological phenomenon, the Permanent Settlement and the revenue system springing therefrom have led to a complex stratification of our society. These various groups having different interests have formed the different strata, and it is a misfortune of Bengal that this stratification has in cases more than one coincided with the division into different castes, sects and religion. For example, it is a very common phenomenon to find in Bengal that one class of people generally belong to one group of caste while people of another stratum to another. That is to say, the bourgeoisie of a particular locality may belong to one caste and religion, the petit bourgeoisie to another caste or religion while the members of the lowest stratum to still another caste or religion and as is common to our country such societal divisions tend to become hereditary thus leading to a conflict of interests not only economic but also racial and religious in its character while grievances perpetuated from father to son add to the complication.

The Permanent Settlement seems to me to have outlived its *raison d'etre*. Some such measure was necessary to transport the country out of a mediæval stage to the complicated socio-economic structure resulting out of British connection. It has been nowhere possible to effect a sudden transition from the primitive economy to the economy of the latest type and some such intermediate step had been necessary. The Government had no sufficient knowledge of the country, the people had no effective training in modern administration, the resources of the country were unknown and undeveloped. Under such conditions, this was possibly the best course for adoption at that time. But we have progressed far and other items of our economic life do not tally with the conditions and the system initiated 150 years ago. We are in fact entering upon a new era of development and all future progress demands that there should be some sort of collectivisation in our economic life. For with further doses of economic progress and correspondence with modern economic conditions all around, a situation is likely to arise, if it has not arisen already, when it should be the duty of every Government to introduce gradually some positive rational policy leading to a systematic development of the resources of the country. And if such a policy is to be entered upon—and we foresee the necessity of such a policy from the little bits of regulative legislation and in the consistent demand for it—it is essential that the Government should have a free hand in planning agriculture.

Thus coming to the question whether a total abolition of the Permanent Settlement now is desirable or not, I may point out that there are two different questions involved in this. That is to say, whether the Permanent Settlement means a total abolition of the zamindari system or abolition of the Permanent Settlement followed by a temporary settlement; for it is quite possible that a repeal of the Permanent Settlement is followed by a temporary settlement with all the present landlords and tenureholders, with rents reduced where necessary on a scientific and uniform basis, and with the landlords' profits fixed at not more than 45 per cent. of the gross rental plus an agricultural income-tax reserved for the purposes of agricultural development only—and such a plan, it is needless to say, may remove some of the present difficulties. But this should not be the aim of Government; for in this era of criticism, there cannot but be fresh difficulties cropping up in near future thus necessitating fresh Government interference. And finally, such a plan would not be able to remedy satisfactorily the defect of the Permanent Settlement so far as a systematic development of agriculture is concerned. Hence any move towards the abolition of the Permanent Settlement only should not stop at the abolition of the Permanent Settlement only but proceed to its logical conclusion and initiate a programme of liquidating landlords and other tenureholders in a wholesale fashion.

Thus the question to me is not one of the abolition of the Permanent Settlement but the zamindari system. I however do not advocate its abolition on the three grounds mentioned. My argument for its abolition would be based on the last defect which I have tried to point out. For what everybody should always bear in mind is that the absence of landlords does not mean an absence of landlordism and there should be at least somebody responsible for doing the duties which the landlords are expected to perform. And from the practical point of view, any Government contemplating the repeal of the Permanent Settlement and a radical alteration of the present structure of society should also take account of the disadvantages—or more correctly of the emergent needs arising out of such abolition—needs, which a sufficiently progressive Government should, I believe, be able to meet. For instance, any repeal of the Permanent Settlement and other radical changes would not only result in the extinction of all the zamindars and tenureholders estimated to be 678,000 in number but also in the unemployment of their officers; also in the partial unemployment of people depending on them—people, such as pleaders, local craftsmen depending on the patronage of the local landholders and so on; also in the limitation in the source of supply of capital to indigenous or modern industries; and in the fall in national demand so far as the purchasing power of these classes is concerned. But if the Government takes up a planned policy of systematic development, these difficulties should not remain unsolved.

What I want to make definitely clear is this:—I do not support the abolition of the present system for merely securing additional revenue for the Government, for there are other devices for that purpose; I also do not support its abolition for making room for certain tinkering measures on the problem of the tenantry, for that is also possible, as indicated later, within the present framework; I do not advocate the abolition of the landlords for consolidating the right of other similar groups who are not the actual cultivators of the soil, for there cannot be any justification of this policy of robbing Peter to pay Paul, when the interest of the country is not served by it; I oppose the abolition of the Permanent Settlement if the Government contemplates it as a merely political measure for patching up present difficulties without agreeing to accept the responsibilities of a progressive or a socialised state in the true sense of the term and to follow a well-systematised plan of agricultural development. I would not support any abolition for example if the future policy contemplates nothing but another settlement with the present occupancy raiyats giving them additional rights. I am definitely of opinion that such a settlement would not only lead to no benefit to the actual cultivators of the soil, but would certainly worsen their position, for small proprietors—and the majority of occupancy raiyats are in fact small

proprietors—are, as a rule, worse masters than bigger ones because of their limited resources and narrow margin; such a settlement is also likely to aggravate the present uneconomic tendencies towards subdivision and fragmentation and alienation and also increase the burden of debt; and what is most important, this would never put an end to the policy of drift so long followed regarding agriculture and the agricultural economy of our country. But, I do advocate the abolition of the Permanent Settlement expecting at the same time that the Government are prepared to enter upon a new era in the socio-economic life of Bengal, and are ready to develop the resources of the country in accordance with a rational systematised plan, curtailing the present rights of the tenants for alienation or subdivision according to inheritance laws, thus making an all-round drive against illiteracy, unscientific cultivation, mal-adjustment in agricultural production, irregular supply of capital, bad sanitation and health and so on. As I have pointed out before, a temporary settlement or any such measure may solve some of the present difficulties. But that, I must maintain, is no satisfactory solution and it is the duty of every honest Government desirous of bringing any benefit to the Bengal peasant to adopt a radical policy as visualised above. And there is no reason why the Permanent Settlement should stand in the way of bringing relief to our hungry millions, if the policy visualised above is going to be carried out.

Q. 14. I advocate compensation to the zamindars and other intermediate tenureholders. Before proceeding to the reasons for such compensation, it should be made clear that if the zamindars receive compensation, there is no reason why the intermediaries should not; for just as the zamindars regard the Regulation I of 1793 as their Magna Charta, so also the tenureholders would regard the same Regulation and other Regulations such as the Patni Regulation as their record of right. And subsequently just as the zamindars have become proprietors of big estates by investing their capital in land, so also subsequent tenureholders have acquired their right not by a stroke of pen but by capital investment. Thus the principle applicable to the landholders should also be extended to the intermediate tenure-holders.

(1) I now come to the reasons for paying compensation. In the order of the society which we are living in, any right taken away is generally compensated for, except in the case of revolution, total expropriation does not generally take place. The principle of allowing compensation has been accepted even in foreign countries, specially in the States of central Europe where the landlord system has been liquidated. There is greater justification that in this province the rights given by a pledge should, if taken away now, be followed by compensation.

(2) Even if it is agreed that the rights conferred by Regulation I of 1793 were wrongly conferred inasmuch as the tenants were not consulted, it is now a known fact that owing to the stringent operation of the Sunset Law and to the heavy revenue demand during early years of the Settlement, most of the estates changed hands[1]. And since then there are continual changes every now and then. As a result of this, there are only a very few families now who are owning the same estate from before 1793. It cannot be denied that during the last century, other channels of investment being extremely limited, investment in land was thought to be a very safe investment and there was literally a craze for land. Now if we expropriate the present zamindars and other tenureholders without paying any compensation, it would be discriminating one form of investment against another.

(3) Any sudden expropriation would give a rude shock to the economic, political and social fabric of our country—a shock which is not likely to be beneficial to anybody. I have made it sufficiently clear that these vested interests should not remain in a progressive state; nonetheless if we suddenly drive out thousands of men without opening up for them alternative avenues of occupation, the economic problem would be too great for the State. And it would perhaps not be too much to believe that political trouble might arise from this sudden transition from feudalism to a socialist state. Needless to say that our social structure would be thoroughly shaken in this chaos. But if this transition is graduated over a number of years through the payment of compensation, there is every likelihood that there would not be any serious economic difficulty or political trouble. And the scheme would have the effect of preparing the social psychology for the coming era so that the difficulties of transition would be reduced to a minimum.

(4) Apart from these economic or political considerations, expropriation without compensation is not permissible under the present law applicable to India. I would refer to section 299 of the Government of India Act of 1935 and paragraph XVII of the Instrument of

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[1]It has been pointed out by Ascoli that in 1797 estates bearing a revenue of Rs. 8,57,355 or more than two-thirds of the revenue of the district, were ordered for sale in Dacca; and the reason for this was made clear in a letter, dated August 7, 1795, of the Collector of that district who wrote—"It is with extreme concern that I am obliged to send so large a statement (for sales), as I am perfectly confident, the arrear has not proceeded from any mismanagement of the zamindars, but the litigation of their under-talukdars, who file suits in the Dewani Court to evade payment of their revenues!" In 1797, a revenue of Rs. 29,00,000 or 11 per cent. of the total revenue, were ordered for sale; in the following year the actual sales covered estates paying 9 per cent. of the total revenue, but the sale proceeds did not even cover the amount of arrears. A more detailed statement of this is to be found in page 56 of the Fifth Report (Firminger's edition, Vol. I, page 101), the net result being that "in the course of the twenty-two years following the Permanent Settlement, one-third or rather one-half of the landed property in Bengal was transferred by public sale." (*Vide Economic Annals of Bengal*—by Dr. J. C. Sinha).

Instruction to the Governor and paragraph XIII of the Instrument of Instruction to the Governor-General. And the spirit of such reservation was made clear in the Parliament, where Mr. Butler quoted extensively from the J. P. C. Report to show how the absence of this clause may lead to a revolution.

(5) Finally, a scheme for compensation would not be an altogether impossible proposition from the financial point of view. Thus there is no reason why any Government should create further difficulties if it can safely compensate the vested interests without dislocating the economic life or hampering its economic position.

This leads us to the question of the total amount payable and the method of payment. The zamindars who have purchased the estates after the Permanent Settlement have generally done so at a price of not less than twenty times the net profit of the property; and so also the tenureholders. And though the customary rate was at twenty times net profit, it would not be impossible to find out a large number of transactions during periods of prosperity, at a rate much higher than the customary one. And from my personal experience in at least two other provinces, viz., Orissa and United Provinces, I may say that this basis of calculation prevails not only in Bengal but also outside Bengal. Though 20 times would be the general expectation, taking the cue from a recent Bill introduced in the Bihar Assembly by Sj. C. P. Jain, I would suggest a rate of 15 times the net profit of the landlord. It has been stated in question 7 that the amount intercepted by the landlords and other tenureholders is either 9 crores in round figures according to settlement reports (i.e., 12 crores minus 3 crores and odd for the land revenue—*vide* "Land Revenue Administration Report," 1935-36, page 2, paragraph 3) or 12 crores according to cess revaluation figures. There cannot be any justification whatsoever for the huge statistical difference when both the figures are supposed to be based on an actual door-to-door enquiry. In the absence, however, of correct statistics, we have to proceed on a more a priori basis. Even taking the maximum amount, the amount intercepted is only 12 crores and odd. Thus fifteen times that sum would be 180 crores approximately.

Regarding the method of payment, I may suggest that there is no use of complicating the procedure by the issue of bonds and the payment of interest thereon—and then create a sinking fund for that purpose. I would suggest that the Government should keep apart half the increased revenue for the payment of compensation and appropriate the rest for other purposes. Thus 6 crores every year would mean the payment of the whole sum in 30 years—a period not unusually long for a Government. It is of course not possible for an outsider to fill in all the administrative details; nor to anticipate all the complications and constitutional difficulties, if any. But the

method in its general outline seems to me to be a satisfactory one for compensating the landlords and others, without impairing the financial strength of the Government or causing any other financial dislocation.

Q. 16. I have tried to enumerate some of the advantages and disadvantages of the Permanent Settlement as a sociological phenomenon in my replies to question 10 and question 11. And there I have pointed out that from the social standpoint, the province has gained culturally owing to the help derived from this leisured class. Any abolition of the zamindari system, therefore, is likely to disturb this cultural evolution.

But on the other hand, the Permanent Settlement, as indicated there, led to a complex stratification of society and to the conflicts of interests not always economic in character. The State-purchase of zamindaris is likely to simplify this complex structure and to place different interests on an economic basis, thus reducing, if not removing, the conflicting influence of caste, race or religion in this matter.

Q. 17. I have sufficiently emphasised that under any new scheme, the Government should have a free hand in matters agronomic. Thus the purchase of the interests of all the tenureholders between the zamindar and the raiyat is essential for that purpose. This change is expected to lead to great benefit to the country, if the Government do not repeat the not too popular khas mahal system throughout the province, but takes up a policy as indicated earlier.

Q. 18. It is not possible for anybody outside the administrative framework to speak with any degree of certainty on this question; but generally speaking some additional machinery would be necessary for the collection of revenue. But what is more important—additional machinery is imperative for carrying out the policy of agrarian development—additional machinery like the A A A in U. S. A. or the Narcomzem in U. S. S. R.

Q. 19. It may be remarked that khas mahal tenants, generally speaking, enjoy no advantage over tenants under the proprietors of permanently settled or temporarily settled estates. I do not refer to subdivision, subinfeudation of tenancy and other uneconomic tendencies. It is also not possible for an outsider to collect all the details of khas mahal operations. But it cannot be denied that there is at least one glaring disadvantage which the khas mahal tenants are bound to suffer. Generally speaking, the landlords do not take recourse to the Law Court for the recovery of rents unless any due is going to be barred by limitation, and thus the tenants get a respite for at least three years. And there is enough room for the discretion by individual proprietors in this matter; they can—and in fact they do—remit or at least reduce the amount due as interest if they get the arrears of rent at a time. But such elasticity is not to be found in the khas mahal system and the strict operation of the Public Demands Recovery Act

reduces them to the verge of insolvency. If the system was not fit for the permanently settled areas, there can certainly be no reason for its retention in khas mahal lands. And in spite of all this, the collection percentage in khas mahal lands is only 42 per cent. while the corresponding figure in permanently settled estates is 92 per cent.

Q. 20. The Permanent Settlement did encourage subinfeudation by fixing the revenue in perpetuity without imposing duties on the landlords. This led to a big margin and the natural tendency was to let out the land to intermediate tenureholders. But the Permanent Settlement can in no way be held responsible for the creation of such tenures. For had there been no Patni Regulation in 1819 there could have been no patnidar and other intermediate tenureholders.

It was not until 1819, the date of the passing of the Patni Regulation that subinfeudation was possible. It was laid down that:—

> "In practice, the grant of taluks and the other leases at a fixed rent in perpetuity had been common with the zamindars of Bengal for some time before the passing of the two Regulations last mentioned; but notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations V and XVIII of 1812, or in any other Regulations, whether tenures at the time in existence, and held under covenants or engagements entered into by the parties in violation of the rule of section II, Regulation XLIV, 1793, should, if called in question, be deemed invalid and void as heretofore."

The Bengal Government in Sir George Campbell's Administration Report for 1872-73 gave the following history of these sub-tenures:—

> "At the time of the Permanent Settlement, Government, by abdicating its position as exclusive possessor of the soil, and contenting itself with a permanent rent charge on the land, escaped thenceforward all the labour and risks attendant upon detailed mufassal management. The zamindars of Bengal proper were not slow to follow the example set to them, and immediately began to dispose of their zamindaris in a similar manner. Permanent under-tenures, known as putni tenures, were created in large numbers, and extensive tracts were leased out on long terms. By the year 1819 permanent alienations of the kind described had been so extensively effected, that they were formally legalised by Regulation VIII of that year, and means afforded to the zamindar of recovering arrears of rent from his patnidars almost identical with

those by which the demands of Government were enforced against himself. The practice of granting such under-tenures has steadily continued until, at the present day, with the patni and subordinate tenures in Bengal proper and the farming system of Bihar, but a small proportion of the whole permanently settled area remains in the direct possession of the zamindars."

So far as the last part of this question is concerned, I have already tried to indicate some difficulties in connection with question 10.

Q. 25. The question of tenancy, as I have tried to indicate, should not be looked at from this point of view. I am not in favour of extending this principle, for such extension would not lead to the economic gain of the province. The occupancy right was condemned by the Liberal Land Committee, England in their report with the title "The Land and the Nation":—

(*a*) it is likely to bolt the door of opportunity against those land-workers who have at present no land to farm,
(*b*) it would complicate measures for acquiring land for small holdings,
(*c*) it would burden the occupier with a load of debt,
(*d*) it would absorb capital urgently required for farming development,
(*e*) it would perpetuate the present size of holding, and
(*f*) it would not provide inducements to good cultivation.

Some of these arguments, if not all, are certainly applicable to Bengal; and specially arguments (*c*) and (*b*) have particular importance so far as our peasants are concerned. The future tenancy laws should, in my opinion, follow more or less the Kolkhosi model, as prevalent in U. S. S. R. It may not be perhaps altogether irrelevant to quote a few lines from Barbara Wootton's 'Plan or No Plan':—

"The peasants pool their stock and tools in common though a certain maximum may be kept in individual possession: on a farm which I visited near Kiev each member of the collective farm, I was told, had the right to retain one cow for the use of himself and his family, the others being collectively housed in a communal cowshed. They work the land in common, in the sense that their tasks are assigned by a management committee of the farm, and performed in groups working under a leader, who is himself a member of the collective farm and, in theory at least, elected. Each worker receives a daily wage in money or kind, or partly in each, which is not necessarily the same for all workers, rates being graded according to the amount of work performed, or the skill required for it."

Thus the unit should be the collective farm and not the tenant or sub-tenants. Of course this may not prove acceptable to many, but any pursuit of the policy of scientific agricultural development cannot logically stop before this step. Nor is there any reason for being alarmed at this idea of taking a leaf out of Soviet economy, for as Wootton remarks "the collectives are groups whose personal livelihood depends on the profitable sale of their product; in this they closely resemble the associations of agricultural producers of the capitalist world termed 'co-operative' by courtesy only." In fact the basis of agriculture is now becoming not individualistic in character, but collective. This is evident not only from the Kolkhosi in a collective State, but also from similar collective intervention in various other countries beginning from the Central European States to U. S. A. In these circumstances, the duty of the Government should be not to aggrevate this tendency of individualist exploitation, but make a drive towards collective economy.

Q. 37. I do think that the unrestricted right of transfer given by the Act of 1929 has led to the passing of considerable areas of raiyati land to non-agriculturists and the Act of 1938 has increased this tendency. And such a tendency in my opinion, is certainly prejudicial to the interest of the cultivating raiyats as a whole. In fact such an apprehension arose in the mind of Sir Richard Garth, the then Chief Justice as early as 1884 when the Bengal Tenancy Bill sought to confer this right of transfer; his opinion is worth noticing on this point. He wrote on that occasion as follows:—

> "I quite admit that to make the occupancy right saleable would increase its value in the market. But it does not at all follow that this will be beneficial to the raiyat himself. On the contrary, I consider that there is no surer mode of exterminating occupancy raiyats as a class than by permitting them to transfer their tenures; and I believe it would be found, on enquiry, that in those districts where occupancy rights have become transferable by custom, a large portion of them have already found their way into the hands of mahajans and others."

Only see what has happened within the last 150 years in our own country. How many of the old yeoman families, who were the copy-holders and customary tenants of former days (answering as nearly as may be to the khudkasht raiyats here), are in existence now?

If the Government really mean to benefit the occupancy raiyat let them take every possible means of preventing him from ruining himself by parting with his ancestral jotes and becoming the prey of those whose interest it is to deprive him

of his status and property" (*vide* Report of the Government of Bengal on the Bengal Tenancy Bill, 1884, Vol. III, p. 89, Minute by Sir Richard Garth dated 13th September, 1884).

And the advice of the Chief Justice has not lost its value yet, and any reform in this direction should take note of this criticism.

Q. 78. The lack of proper statistics is nowhere clearly demonstrated than in cases like this. There are different estimates, each varying substantially from the other. The Bengal Banking Enquiry Commitee came to the conclusion that the income of an agricultural family that is derived from agriculture alone is Rs. 406 per family or Rs. 79 per head of population, and to this, the Committee added Rs. 44 as the average annual income of a family from subsidiary occupations. And in their estimate, the expenditure is Rs. 420 a year, thus giving a small margin of Rs. 30 per family or Rs. 6 per head. (*Vide* Report, para. 27, page 29.)

The opinion of the Bengal Board of Economic Enquiry does not tally with that of the Bengal Banking Enquiry Committee. The figures collected by the Board of Economic Enquiry are quoted below :—

	All districts.
1928.	Rs.
Cash income	.. 218±4
Cash expenditure	.. 217±3
Surplus or deficit	.. ±1
Debt	.. 112±4
1933.	
Cash income	.. 114±2
Cash expenditure	.. 136±2
Surplus or deficit	.. −2
Debt	.. 187±4

Vide Supplement to the *Calcutta Gazette*, Jan. 24, 1935.

Mr. Jack in his *Economic Life of a Bengal District* estimated the income of the comfort class to Rs. 365 per annum, that of those in extreme indigence to be Rs. 115 per annum while the expenditure for those two classes is Rs. 249-13-9 and Rs. 101-10 as. respectively. The bulletins of the Bengal Board of Economic Enquiry also make similar attempts so far as different districts are concerned. It has been revealed through personal enquiries on this point in different villages within our estate that the average net income is Rs. 7. I do not guarantee the precision of these figures; nonetheless they are at least good indicators of the present situation.

Q. 83. The question of rural credit has not been satisfactorily tackled at least in Bengal. Debt legislation in this province has most unwisely shaken the credit structure of our country thus restricting private credit without making arrangement for organised credit. I may draw the attention of the Commission to a few pages of my brochure on that topic, a copy of which is attached hereto* (Debt Legislation in Bengal—specially p. 28), and in which I have tried to point out some of these defects as well as some suggestions for the improvement of agricultural credit.

Q. 85. The co-operative credit societies have not, in my opinion, been able to tackle the problem of agricultural credit satisfactorily. I believe that most of the criticisms levelled against the co-operative structure in the reports and bulletins of the Agricultural Credit Department of the Reserve Bank of India are applicable to our province. I am also taking the liberty of mentioning below certain specific cases within my zamindari. Of course it is always risky to generalize from certain individual instances; but these instances, I believe, are not peculiar to the district referred to below but is more or less typical to West Bengal. So far as my information goes, the members of these societies do not form more than 2 per cent. of the total population in the respective villages.

Village—Nabagram : Thana—Nabagram : Subdvision—Lalbagh : District—Murshidabad.

Name of the Members.	Principal.	Interest due.
Nabagram Palli Samiti— Rate of Interest : Rs. 9-6-0	Rs. a. p.	Rs. a. p.
1. Purna Chandra De & Nishibhushan De	142 8 0	129 1 0
2. Kalikanta Datta	198 0 0	249 14 3
3. Pashupati Saha	146 0 0	91 10 3
4. Anukul Laha	163 0 0	173 10 3
5. Gandheswari Bewa	92 0 0	72 6 6
6. Kalipada Mandal	171 0 0	178 14 6
7. Renupada Nandi	157 0 0	160 9 0
8. Gour Chandra De	80 0 0	95 11 0
9. Netai Chandra De	53 0 0	73 0 6
10. Kalipada Ghose	201 8 0	197 11 9
11. Asitabarani Debi	19 0 0	25 3 6
12. Mahendra Kolai ..	45 0 0	46 0 6
13. Bahuballabh Narasundar ..	78 0 0	99 0 3
Total ..	1,546 0 0	1,592 13 3

*Not printed.

Name of the Members.	Principal.	Interest due.
Nabagram Uttarpara Joint Bank—	Rs. a. p.	Rs. a. p.
Rate of interest : Rs. 9-6-0		
1. Ramranjan Pande	29 0 0	Nil.
2. Sarat Ch. Chakraverti ..	54 0 0	19 3 6
3. Dukhaharan Chakraverti ..	23 0 0	5 5 9
4. Sachinandan Khan ..	67 0 0	11 15 9
5. Bhushan Chandra Mandal ..	Nil	Nil.
6. Pashupati Narasundar ..	33 0 0	3 6 9
7. Sripati Mandal	38 0 0	14 9 0
8. Gadadhar Chakraverti ..	33 0 0	13 9 3
9. Mahendra Manjhi	21 0 0	3 4 3
10. Abinash Mandal	17 0 0	1 8 9
Total ..	325 0 0	72 15 3

Name of the Members.	Principal.	Interest due.
Khozardanga Co-operative Agricultural Bank—		
Rate of interest : Rs. 10-6-0	Rs. a. p.	Rs. a. p.
1. Kobad Shaikh	84 0 0	67 5 3
2. Jaynal Shaikh	28 0 0	8 9 6
3. Umejan Shaikh	85 9 9	108 11 0
4. Akul Shaikh	120 0 0	131 11 0
5. Imarat Shaikh	36 0 0	45 3 0
6. Oshujan Shaikh	30 0 0	39 9 6
7. Bahali Shaikh	100 0 0	98 8 0
8. Rekatalecha Bibi	86 0 0	92 12 6
9. Wazed Ali Shaikh	45 0 0	61 10 3
10. Sahebjan Shaikh	167 0 0	154 15 9
11. Mobarak Shaikh	36 0 0	23 8 3
12. Khazal Huq Shaikh	104 0 0	148 4 3
13. Taluk Shaikh	134 0 0	182 10 0
14. Khoali Shaikh	Nil	Nil
15. Gumanee Shaikh	Nil	Nil
Total ..	1,085 9 9	1,387 13 0

Name of the Members.	Principal.	Interest due.
Beluri Bhitarpara Agricultural Bank—		
Rate of interest : Rs. 10-14-0	Rs. a. p.	Rs. a. p.
1. Mahammad Aminal Huq ..	156 0 0	103 2 0
2. Moktar Ali	131 0 0	87 9 6
3. Mahammad Soleman Shaikh ..	131 0 0	100 6 6
4. Arshad Ali	75 0 0	42 8 6
5. Alena Rahaman	116 0 0	81 0 6
6. Mahammad Zakar Ali ..	75 0 0	50 6 9
7. Khalebar Rahaman	116 0 0	80 14 6
8. Mahammad Sabibulla ..	206 0 0	152 11 3
9. Mirza Ershad Ali	236 0 0	196 11 6
10. Mirza Eusab Ali	206 0 0	139 11 3
11. Paresh Mahammad	106 0 0	74 3 3
12. Etbari Shaikh	75 0 0	53 14 9
13. Mirza Malek Ali	75 0 0	51 9 0
14. Abdul Wahed Shaikh ..	116 0 0	101 10 6
15. Serazul Haque	231 0 0	172 3 6
Total ..	2,051 0 0	1,488 11 0

Name of the Members.	Principal.			Interest due.		
Beluri Dewanpara Agricultural Bank—Rate of interest : Rs. 10-14-0	Rs.	a.	p.	Rs.	a.	p.
1. Abdul Wahed Shaikh	69	0	0	10	0	0
2. Abzola Khan	47	0	0	34	11	6
3. Hosina Bibi	47	0	0	32	1	6
4. Sabiran Bibi	53	0	0	34	2	9
5. Moktar Ali	37	0	0	27	6	9
6. Ratan Ram Bhakat	60	0	0	37	10	0
7. Ekrama Molla	46	0	0	35	4	3
8. Zunab Shaikh	40	0	0	28	8	6
9. Afsar Shaikh	67	0	0	45	14	3
10. Osman Shaikh	53	0	0	40	12	3
Total ..	519	0	0	326	7	3

Name of the Members.	Principal.			Interest due.		
Beluri Khandakarpara Agricultural Bank—Rate of interest : Rs. 10-14-0	Rs.	a.	p.	Rs.	a.	p.
1. Jabed Hossain	190	0	0	176	3	6
2. Nashoo Narasundar	67	0	0	65	6	6
3. Ebad Shaikh	43	0	0	43	0	0
4. Nur Mohammad Shaikh ..	53	0	0	45	3	0
5. Mahammad Shaikh	77	0	0	76	2	9
6. Tenez Dewana	63	0	0	52	11	0
7. Sunarit Shaikh	58	0	0	70	2	3
8. Lolzar Shaikh	50	0	0	53	5	9
9. Obla Shaikh	64	0	0	42	4	9
10. Zubed Hossaina	50	0	0	47	11	9
11. Ali Hussain Shaikh	90	0	0	86	6	3
12. Tincori Shaikh (deceased) ..	10	0	0	5	3	6
Total ..	815	0	0	763	13	0

Name of the Members.	Principal.			Interest due.		
Neemgram Pashchimpara Agricultural Bank—Rate of interest : Rs. 10-14-0	Rs.	a.	p.	Rs.	a.	p.
1. Mahammad Waresh Ali ..	60	0	0	29	8	6
2. Matlab Hossain Chaudhury ..	180	0	0	155	15	6
3. Arshad Mallick	78	0	0	65	7	0
4. Nayebjan Khan	115	0	0	128	12	3
5. Shaikh Selamatkha ..	100	0	0	86	13	0
6. Osman Shaikh	50	0	0	30	3	0
7. Nur Mahammad Shaikh ..	80	0	0	65	3	6
8. Setab Mallick	100	0	0	72	14	0
9. Zeanesa Bibi	110	0	0	61	14	6
10. Abdul Aziz	125	0	0	104	12	0
11. Saifulla Shaikh	200	0	0	169	12	0
12. Zubed Hossain Chaudhury ..	100	0	0	92	6	0
13. Lekjan Bibi	105	0	0	99	12	9
14. Wazed Ali	60	0	0	39	8	6
15. Jan Bibi	60	0	0	39	8	6
Total ..	1,523	0	0	1,242	7	0

Name of the Members.	Principal.	Interest due.
Shilagram Shaikpara Co-operative Bank (Agricultural)— Rate of interest : Rs. 11-8-0	Rs. a. p.	Rs. a. p.
1. Ibrahim Shaikh	60 0 0	..
2. Peeroo Shaikh	80 0 0	..
3. Enayat Shaikh	37 0 0	..
4. Earjan Shaikh	75 0 0	..
5. Himmat Shaikh	75 0 0	..
6. Sahebjan Shaikh	68 0 0	..
7. Jameer Shaikh	55 0 0	..
8. Quasim Shaikh	62 0 0	..
9. Murkhat Shaikh	44 0 0	..
10. Taher Shaikh	73 0 0	..
11. Erphan Shaikh	57 0 0	..
12. Makim Shaikh	37 0 0	..
Total ..	716 0 0	..

Reply by the Chief Manager, Tagore Raj (Mr. D. Chatterjee).

Q. 1. The objects stated were not the only objects of the Regulation I of 1793.

The memorable Minute of Lord Cornwallis, dated February 3 of 1790, may also be referred to.

"The history of this settlement may be traced upon the public proceedings; and I trust that the state to which it has reduced many of the landholders will suggest to the Court of Directors very strong arguments in favour of a permanent assessment, and prove to them the justness of Mr. Shore's own observation:—'That the mere admission of the rights of the zamindars, unless followed by the measures that will give value to it, will operate but little towards the improvement of the country; that the demands of a foreign dominion, like ours, ought certainly to be more moderate than the impositions of the native rulers, and that, to render the value of what we possess permanent, our demands ought to be fixed; that, removed from the control of our Government the distance of half the globe, every practicable restriction should be imposed upon the administration in India without circumscribing its necessary power, and the property of the inhabitants be secured against the fluctuations of caprice, or the license of unrestrained control.'

"I trust, however, that it cannot be imagined that I would recommend that the proposed settlement should be made with a blind precipitation; or without our having obtained all the useful information that, in my opinion, can be expected of the real state and value of the different districts."

The Permanent Settlement Regulation was enacted from a consideration of the urgent necessities of the State which were complicated, and not, only to confer any benefits on the landlords.

With the decline in the importance of the Company's trade "it became essential to ensure the financial success of the administration". The revenue was not being duly collected, there were huge arrears, and the Directors and shareholders of the Company in London were getting nervous about their dividends. Successive schemes adopted had proved abortive, and Lord Cornwallis was sent to India with special instructions to settle permanently, so that it would ensure the realisation of a minimum amount of revenue. Thus the primary objects were as stated by Mr. Ascoli (page 73)—

(1) "To place the revenue paying agency on a definite footing and to expedite and assure the payment of revenue.
(2) To ensure a minimum revenue.
(3) To free the hands of officials for other sphere of administration;"

and then

(4) "To promote the extension of cultivation";

and History shows how far these objects have been achieved.

The revenue system was in a muddle, and though several systems were adopted, every one of them proved a failure. The realisation was difficult, and huge arrears accumulated. The Company's servants were almost all dishonest and no papers could be properly scrutinised. In such a state the only expedient was the Permanent Settlement, for which twenty years' experience gave them a certain data to work upon. A large number of officers had so long been engaged for the collection, which though was unsatisfactory, the hands of those officers were too full, and they could not be usefully engaged in other departments necessary for good government. Two-third of the country was full of jungle (*vide* Colebrooke), there were no means of safe communication, and attention was so long not given to improve them. The Permanent Settlement gave them an immunity from the heavy costs of collection, assured them a minimum revenue, provided them relief from any expenditure for improvement of agriculture; and the fifth object in view and one of the most important of objects, viz., *to collect a loyal body of influential people to support them in maintaining internal peace and defence,* was also secured.

The country was at that time almost in the hands and under the influence of several Nawabs and Rajas with whose help Lord Clive could secure a footing in the country; after securing a footing, they could not establish themselves, however, they might try; they were being engaged in wars outside, the French and Portuguese were giving them trouble, and so they thought that the support of the influential Rajas and Nawabs or rather zamindars, was absolutely necessary; and for the support a settlement with them in perpetuity was a necessity.

A reference to the evidence of Mr. Pattle, a former member of the Board of Revenue, may be made in this connection—

"The country brought under the Decennial Settlement was for the most part wholly uncultivated, ... public credit was at its lowest ebb, and the Government was threatened with hostilities from various powerful Native States. Lord Cornwallis's great and comprehensive mind saw that the only resource within his reach in this critical emergency was to establish public credit and redeem the extensive jungles of the country. These important objects, he perceived, could only be effected by giving to the country a perpetual land assessment,....."

The description of the duties and obligation of zamindars are exhaustive. They were more stringent than what their duties were in the pre-Permanent Settlement days. By the Regulation I of 1793—

'The zamindar was faced by the immediate prospect of being liable to pay a revenue, which in view of the difficulties of realizing rents from his tenants, was very heavy. Over his head was brandished the axe of the sale, ready to descend and destroy him if the smallest arrear accrued; it was the law of sale that rendered the Permanent Setlement unpopular. It is true that estates had been sold for arrears of revenue as early as the year 1774, but the ordinary method of realization had been either the imprisonment of the proprietor (or more usually of his representatives) or the temporary lease of the defaulting estate to others; these methods, however, seldom proved successful in preventing the zamindar from continuing to realize the rents. The realization of arrears of revenue had previously been a long-drawn-out process, often an unsuccessful process; it was now to be certain, automatic and immediate. In the payment of the revenue the zamindar was confronted by two dangers, that of a year of scarcity and famine, and that of a contumacious tenantry. Fortunately for the zamindar the closing years of the eighteenth century were season of great plenty, but the other danger was rampant. 'It is with extreme concern,' wrote the Collector of Dacca in 1795, 'that I am obliged to send so large a statement (for sales), as I am perfectly confident, the arrear has not proceeded from any mismanagement of the zamindars, but the litigation of their under talukdars, who file suits in the Dewani Court, to evade the payment of their revenues'." (Ascoli's Early Revenue History of Bengal, pages 74 and 75.)

No rights of the tenants were taken away; they continued to be more and more contumacious to evade payment of their just dues. There were no laws compelling them to pay their dues puctually and with regularity, and the zamindars were left with the liability to pay a highly extortionate revenue with no power to realise his just dues from his tenants. This contributed to the immediate failure of the objects of the Permanent Settlement and many zamindars went down under the hammer, and many old families became extinct.

At the time of the Permanent Settlement, the raiyats had no apparent desire for permanancy and would not have the rent fixed. The great Revenue Administrator Mr. C. T. Buckland as Commissioner of Burdwan wrote in his letter No. 115, dated the 22nd June 1875, to the Secretary to the Government of Bengal:

"5. Prior to the Perpetual Settlement, the papers collected in the celebrated Fifth Report tend to show that fixity of revenue and of

rent was a subject on which the party who had to pay either revenue or rent had a great objection to fixity and consolidation of the sum to be paid. It was so much the practice of the native Government to demand a sudden increase on the revenue or rent, that the object of all liable to pay was to keep their admitted or fixed liability at the lowest figure. For instance, an annual payment of Rs. 5 of revenue or rent was calculated as follows:—

Rs.	
2	the admitted asli or fixed rent or revenue.
1	abwab.
1	mathut.
1	fouzdaree abwab.
Total 5	

Therefore, although this Rs. 5 might be paid annually in a consolidated sum and without objection, still the payer was tenacious of the principle on which the calculation was made; because if a sudden imperial order arrived to double the demand, the double would be taken as the double of Rs.2, i.e., the asli jama, and not as the double of Rs. 5, which included abwabs, mathut, &c.

6. When the perpetual settlement fixed the amount of the revenue payable to Government by zamindar, and relieve the zamindar from the liability to any novel or additional demand of revenue, there was no real change made in the status of the raiyat as rent-payer to the zamindar; but the Regulations attempted to provide that there should be a general exchange of pottas and kabuliyats between zamindars and raiyats, which would have had, to a great extent, the practical effect of giving fixity to the rent payable by the raiyat.

7. The status of the raiyats, as described in Mr. Shore's celebrated Minute of June 1789, regarding the Permanent Settlement of Bengal, is clearly applicable to their position when the Regulation of 1793 took effect. Mr. Shore says that there were two fundamental distinctions in the tenures of raiyats:—

Firstly, when the rents are calculated upon an asal or original rate, with an addition of the cesses subsequently imposed.

Secondly, where a fixed sum is paid for a specific quantity of land at so much per bigha, without any other distinction. The raiyats holding under this form are compelled to stand to all losses to pay for the land whether cultivated or not, and have no security against demand but desertion.

8. Mr. Shore next observes that there are also two distinctions of importance with respect to the rights of the raiyats. Those who cultivate the land of the village to which they belong, and either from length of occupancy or other cause, have a stronger right than others, and may, in some measure, be considered hereditary tenants, and generally pay the highest rents. The other class usually cultivate lands belonging to village where they do not reside. They are considered as tenants-at-will, and will not submit to the payment of so large a rent as the other class, and, when oppressed, easily abandon the land.

9. Mr. Shore says that it would be endless to attempt to describe the subordinate variations in the tenures or conditions of the raiyats Where discretion has so long been the measure of exaction; where the qualities of the soil and the matter of the produce suggest the rates of the rents; where the standard of measuring the land varies; and where endless and often contradictory customs subsist in the same district and village, the task must be nearly impossible.

10. Reference is then made by Mr. Shore to the abuses which existed, and the arbitrary imposition of special additional cesses on various pretexts, and the want of formal engagement between the renters and raiyats are specially noticed. On the other hand, it is stated by him that the raiyats derived advantages even from these abuses. The want of engagements, or of precision in the terms of them, afforded them opportunities of imposing upon the landlords. Artifice was opposed to exaction, and often with success. It was found that the raiyats showed an aversion to receive pattas, which ought to secure them against exactions, from apprehension that the rates of their payments being reduced to a fixed amount, this would become a basis of future imposition.

11. It is sufficient for the present purpose to sum up briefly the position in which the Permanent Settlement left the zamindar and the raiyat; the zamindar with the demand of revenue fixed forever against him, the raiyat with demand of rent unfixed and uncertain, and apparently with no desire that it should be fixed."

Colebrooke in his Remarks on the Husbandry and Internal Commerce of Bengal says in page 45:—

"In recognising a proprietary right belonging to zamindars, no more can have been intended than to disclaim all pretensions on the part of the Soveriegn to a property in the soil, not to abridge or annul the rights and privileges of other classes."

No rights of the tenants were taken away by the Regulation I of 1793, but they became so obstructive and contumacious in evading payments that laws later on had to be enacted for the punctual

realisation of rents, in order to ensure a punctual payment of revenue by the zamindars.

Rather it was that the rights and privileges, that the zamindars were in the enjoyment of, were curtailed and abridged by the measure. This will be evident from what follows below:—

Lord Cornwallis, while acknowledging the rights of zamindars contended for by Mr. Shore, and the force of the latter's reasoning, maintained that individual rights and immunities should give way to considerations of Imperial interests and necessities. His Lordship said in his Minute of February 3rd, 1790—

"I admit the proprietary rights of the zamindars, and that they have hitherto held the collection of the internal duties; but this privilege appears to me so incompatible with the general prosperity of the country, that however it may be sanctioned by long usage, I conceive there are few who will not think us justifiable in resuming it."

The principle was adopted in Regulation XXVII of 1793. Its preamble runs as follows:—

"Experience having at length proved that prohibitory order for preventing oppression were not attended with the desired effect, it was determined on the 11th June 1790, to take from the landholders the power of imposing and collecting duties; and to exercise this privilege immediately and exclusively on the part of Government. The consequences of this measure were expected to be the effectual abolition of many vexatious duties on articles of internal manufacturer and consumption, as well as on exports and imports; the supression of many petty monopolies and exclusive previleges, which had secretly been continued to the great prejudice of the lower orders of the people; and as the natural effects of the reform of these abuses, benefit to trade, and ease to inhabitants of the country in general. A further consequence expected from the exercise of this privilege was future opportunity of augmenting the public revenue in case the exigencies of Government should render it indespensably necessary, without increasing the assessment on land."

The above clearly establishes that beyond the assessment of a fixed revenue, the Permanent Settlement did not confer any boon on the zamindars; rather the measure freed the raiyats and "other lower orders of the people" from "vexatious,"—but not illegal—duties and imposts. It also took away some of the privileges and benefits which the zamindars were in the enjoyment of through "long usage". The great mind of Lord Cornwallis foresaw how the revenue could be fixed forever without impairing the resources from which the

economic interest of the country could progress unhindered, and trade and commerce could prosper; and he offered the bait of fixity of revenue to the zamindars, which they were made or induced to accept, as a relief from the vexatiousness they had been subjected to by the ever-increasing fluctuations in the amount of Government demands.

Q. 2. The Permanent Settlement recognised the property in the soil to lie in the zamindars. In reference to this question close scrutiny was made of the rights of all parties particularly that of the tenants. Mr. Shore in paragraph 389 of his Minute, dated 18th June 1789, said—

"The raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed; but this right does not authorise them to sell or mortgage it, and is so far distant from a right of property."

While the Permanent Settlement declared the zamindars to be the proprietors of the soil and fixed the amount of their revenue, it declared that the tenants must be treated according to the prevailing custom.

Mr. Henry St. George Tucker in his book (published in 1825), "Review of the Financial Situation of the East India Company in 1824," said in pages 92 and 93 as below—

"The rights of the zamindars were contested by persons of high authority; but Lord Cornwallis who naturally revolted at the extravagant proposition of the Sovereign being the universal landlord, at once cut the knot, by deciding, that if the landholders did not exist, they ought to exist and must be created; and as a consequence of this determination, the zamindars whose connection with the land was more immediate and apparent, were recognised by our Government as the proprietors of the soil; a reservation being expressly made at the same time in favour of the rights of any other parties, who, by virtue of prescriptive usage or otherwise, might be able subsequently to establish an interest in the land."

Thus it was not that all landlords of whatever description and origin were given the benefit of the Permanent Settlement, but it was only those "whose connection with the land was more immediate and apparent" that were given the right. The raiyats also were given the privilege of establishing their rights; and they were at liberty to apply to the Government where the zamindar was exceeding his rights. *Vide* Lord Cornwallis Minute of February 3, 1790, paragraph 2.

"The cultivator therefore has, in such cases, an undoubted right to apply to Government for the protection of his property, and Government is at all times bound to afford him redress."

All tenancy legislations subsequent to Permanent Settlement has been directed avowedly with this object. The zamindars before the Permanent Settlement were in the full enjoyment of powers of enhancing the rents of the raiyats and of realising abwabs under many designations, but the Permanent Settlement restricted these powers. Their other powers of realising tax on internal commerce were taken away and their sayer collections were abolished.

In Mr. Tucker's book above referred to we find in page 94—

"We endeavoured at the same time to limit their demands for rent, and to preserve the right of occupancy to their raiyats and under-tenants."

In this way the Permanent Settlement to a certain extent regulated the usage of the land, and, in the answer to question 3, we shall see that the result of the Permanent Settlement has always been the improvement of the economic interest of the province.

One of the essential ingredients of a right of property is the right to choose the person who will enjoy the said property. As we have seen above, beyond the limitations to the rights of the zamindars imposed by Government in legislations subsequent to the Permanent Settlement as regards raiyats with a right of occupancy, zamindar has the absolute right to choose his tenant; and, even in cases of raiyats having rights of occupancy, these tenants could not sell or mortgage the lands (*vide* Shore's Minute referred to earlier in answer to this question). It follows then that beyond the prescriptive right of user by a raiyat the zamindar *had the right to* choose his tenant from before Permanent Settlement, which confirmed this power by recognising him as the proprietor of the soil.

As regards new settlements, there have been no restrictions imposed; rather we have in Regulation VIII of 1793 that the zamindar has the power to let his lands "in whatever manner he may think proper".

Q. 3. The zamindars have played a very important part in the economic development of the province. In fact, no institution can, even now, boast of any importance without the hands of the zamindars contributing directly or indirectly to its success. Look wherever one may like, the impress of the zamindar is on every institution whether it is a social, moral, religious, educational, charitable or even an agricultural institution. The big zamindari bunds of old, and the big tanks and dighis which intersperse the countryside were neither constructed by the Sovereign nor by the tenants. In fact many of these are still being maintained by many zamindars. Even now, when there is a project mooted for the development or improvement, the zamindars, though disintegrated, shorn off all

their powers and privileges, and reduced to the position of dependence on the sweet will of their tenants for the collection of their just dues, do not hold themselves aloof, but come out with their purses to help as much as it lies in their power.

In continuation of the evidence of Mr. Pattle that has been quoted in my reply to question 1, Mr. Pattle observed as below:—

"Admitting the sacrifice was very great, I think it cannot be regretted when it is considered what difficulties it conquered, and what prosperity it has introduced and achieved. For my part I am convinced that our continuance in the country depends on the adoption of that measure, and that our stability could not otherwise have been maintained unaltered."

That the country was industrially prosperous before the advent of the British there is no doubt; that this prosperity was a thing of the past not very long after the Permanent Settlement, there is equally no doubt. The following is a quotation from Page 9 of the Notes on India by Dr. Buist of Bombay (India Reform No. III published in London), which will establish this proposition.

"Its indigenous manufactures, now fast hastening to decay, were once on a scale of magnificence worthy of its raw produce. The correct forms of ships—only elaborated within the past ten years by the science of Europe—have been familiar to India for ten centuries; and the vessels which carried peacocks to Ophir for king Solomon, were probably the same as the fishing craft of the present day, which furnish the models the American and English clipper and yacht builders are aspiring after. The carving of its woodwork, the patterns, colours, and texture of its carpets, shawls and scarfs, admired for centuries, have, since the great fair of the world been set forth as patterns for the most skilled artificers of Europe to imitate. From the looms of Dacca went forth those wonderful tissues that adorned the noblest beauties of the Court of Augustus Cæsar, bearing in the eternal city the same designation sixteen centuries ago as that by which cotton is still known in India; and the abundance of Roman coins and relics up to our time occasionally exhumed yet preserve traces of the early commercial connection between the two most wonderful nations in the world—those of the Cæsars and the Moghuls. The rarest gifts Bengal could offer its native princes or its foreign conquerors, were the muslins known as "the running water," or "the nightly dew,"—being when wet scarcely distinguishable from either; and since the advent of the English, a single piece, twenty yards in length, and one and a quarter in breadth, weighing no more than fourteen ounces, has been sold for twenty-five pounds, a sum equal to the requital of three Dacca spinners and weavers for twelve months."

This was the condition prevailing when the collections of the internal duties on commerce, etc., and other imports was in the hands of the zamindars, and when they were in the exclusive enjoyment of monopolies, and of duties on exports and imports. These powers were taken away by the Regulation I of 1793 and Regulation XXVII of 1793 and the country's trade, commerce and industry were taken upon in the nursing care of the then Government. Somehow or other this prosperous condition and industrial development became a thing of the past after the Permanent Settlement but the zamindars cannot be blamed for this. The economic interest of a country grows *pari passu* with the industrial development, and one cannot grow when the other lies moribund; but whatever improvement in the economic interest of the country has since been made, it has certainly been due to a great extent, to the efforts of the zamindars.

The good and improved results of the Regulations were evidenced by the fact that the Company though its trade was then declining, could carry on the administration and wage its almost never-ending wars outside Bengal without detriment to its financial resources and without even limiting or lessening the amount of its dividends paid to its share-holders.

In Dr. Wilson's "Mill's history of India", Vol. VI, page 671, it is said—

"In every year of our intercourse with India even in those in which the public revenue has fallen far short of the expenditure, there has been a large accession to English capital, *brought home* from India....."

Mr. Tucker in page 34 of his book (A Review of the financial situation of the East India Company in 1824), wrote

"The living spring was drained for the moment; but it was not destroyed. Embarrassed as we were, in some degree, at the instant, the Government consigned to the Court of Directors, in the very ship which conveyed Lord Hastings to India, the sum of £300,000 in specie and bullion; nor could it have been prepared in 1815 to undertake an expensive war, if at the close of 1813, the sources of our prosperity had not remained unimpaired and abundant."

Before 1793 two-third of the land was jungle and waste land, and the land tax which was the only source of revenue could not be regularly and punctually recovered in its entirety. Zamindars and capitalists were shy to make any agricultural enterprises in view of the prevailing system of periodical assessments of revenue. Since the introduction of Permanent Settlement, though for 15 years the realisation of revenue was not very satisfactory,—I call this the period of transition,—not only the land revenue was being realised

with clock-work regularity, but new sources of revenue were opened out, the yield of which was considerably more than the land tax. That the zamindars have contributed towards this development, and that because of the Permanent Settlement, is amply evident. On the 20th October 1833 the Commissioner of Burdwan reported—

"The Bengal of to-day offers a startling contrast to the Bengal of 1793; the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement.....A great portion of this increase is due to the zamindari body as a whole, and they have been very active and powerful factors in the development of this prosperity."

Mr. Tucker in his book referred to above, in page 103 said so far back as in 1825—

"Still, there are persons who, witnessing the flourishing condition of the Bengal provinces, and knowing that the rents and income of the zamindars have, in many instances, been immoderately increased, seem disposed to impute to Lord Cornwallis an improvident sacrifice of the public revenue. The inference is as gratuitous, as the imputation is unjust. The prosperity of the country and the growing opulence of the zamindars, are the happy effects of the Permanent Settlement."

"Those effects would probably never have been produced, if the Settlement had never been made. Secure to man the produce of his industry, and he will be industrious. Provide for the security of his property and it will be embarked in works of public utility, advantageous to the individual, and beneficial to the community at large. But if the deadly hand of the tax-gatherer perpetually hover over the land, and threaten to grasp that which is not yet called into existence, its benumbing influence must be fatal, and the fruits of earth will be stifled in the very germ."

In pages 107 and 108 he wrote—

"By limiting the demand of the exchequer, the residuary produce of industry became a property, and the labour of the country was stimulated into active employment. A widlerness, as if by magic, was converted into a garden; capital was created; the surplus produce of the soil was preserved; and the abundance of one province, or of one season, supplied the deficiencies of another. Famine, that scourge of a numerous population, has been averted, as far as it can be averted by human means; and during a period of thirty-five years. in which unfavourable seasons and deficient harvests have certainly been experienced. Bengal has not only enjoyed plenty at home, but has assisted largely in supplying the wants of other countries".

It may pertinently be asked here as to who contributed to this prosperity as evidenced by Mr. Tucker in 1825; not the Sovereign, the East India Company, which were busy in paying dividends and waging wars in Southern India. The fiscal system introduced by Regulation I of 1793 was the main cause of such prosperity.

These effects were the very results that were anticipated by the great mind of Lord Cornwallis. "It is expressly stated in the preamble to Regulation XXVII of 1793 that the Legislature in resuming and abolishing the sayer" which was kept out of the Permanent Settlement Regulation (I of 1793) or internal duties and taxes had these objects in view: firstly, the promotion of commerce; secondly, general relief of the inhabitants from oppressive taxes; and thirdly, the augmentation of income "in case the exigencies of Government should render it indispensably necessary to augment the public revenue without increasing the assessment on the lands."

Assertions now-a-days are too common that the zamindars never did nor have done anything generally for the improvement of their tenants. To make a negative assertion is very easy and against it cases of liberality are not accepted as sufficient to disprove the general charge of callousness. We can however refer to the great famine of 1873-74 which devastated the countryside generally, and I think one may with profit refer to the well-known Minute of Sir Richard Temple, the then Lieutenant-Governor of Bengal, on the services rendered by the zamindars during that famine. Extracts from the Minute are given below:—

"I must, however, premise by remarking that there are two important points which cannot be fully set forth in specific details of this character, namely, the effect of the suspension or remission of rents, and the gift of land to the State, free of cost, for relief works.

"In most cases it is probable, and in many cases, it is certain, throughout the distressed districts, that the zamindars and landholders of all classes have suspended the collection of a considerable portion of their rents..... They (the zamindars) must all have suffered at least temporary pecuniary loss, and some must have undergone great inconvenience. Large numbers, perhaps many thousands of lesser landholders, who cannot be formally designated as distressed, must nevertheless have suffered a severe distress, the full degree of which will never be exactly known. It will be found, too, that for the period of the famine and scarcity, the land revenue is paid in by the zamindars in a manner which is satisfactory and creditable to the working of the Permanent Settlement.

"As a general fact, I may mention, that the total of the sums taken out by zamindars, landholders and merchants, both European and Native—chiefly by Natives as advances from the public

treasury, amounts to forty lakhs of Rupees or £460,000; partly for improvement of the land, partly for the benefit of the tenantry, partly for importation of grain. These advances will doubless be punctually repaid. They were taken by the recepients not at all for their own benefit, but for the sake of doing good offices to those with whom they were connected by ties of fellowship, of neighbourhood, or of social relation. The magnitude of the sum total represents a great effort made by the upper classes of society on this occasion."

To that Minute was annexed detailed lists of the contributions and liberality of the zamindars. That the material condition of the raiyats was prosperous and progressive even after such a disastrous famine and the magnanimous conduct of the zamindars will be evidenced by the reports of the several Commissioners of Divisions published in the supplements to the "Calcutta Gazette" from November 1873 to August 1882. The resolutions of Government on the reports of the Divisional Commissioners were discontinued in the Gazettes in 1880 and 1881, for which years the Administration Reports of the Government of Bengal may be referred to.

The zamindars of to-day though much crippled by law and agitation and also by successive enactments, further and further limiting their resources and depriving them of the means of realisation, still retain that spirit of liberality, and even in the recent distress caused by flood and scarcity in 1931-32, and also of this year, many a zamindar and landholders have practically suspended their rent collections; and I know of one zamindar—the Maharaja Tagore who has absolutely stopped realisation of all interest since 1931 up to the present date, and over and above that remitted a quarter of his net dues thrice since that year (1931). He contributed also liberally as much as possible towards the relief fund, started in the locality this year (1939). Others must have also contributed and perhaps more liberally, but that cannot be widely known, as none of these truly aristocratic class of people will blow their own trumpets.

In closing my answer I would invite reference to the remarks of Mr. Ascoli quoted at the end of my answer to question 12.

Q. 4. The simple answer to this question is the Regulation I of 1793 itself which "formally" declared and confirmed that the right of property in the soil was in the zamindars. The word "zamindars" was used in a very wide sense. In the pre-Permanent Settlement days there were several tributary princes, who, beyond paying a tribute to the Sovereign, exercised the power of a king in the internal fiscal administration of his principality or zamindari, in the maintenance of law and order and in the defence of his territory. We yet

remember the 12 Bhuiyas of Bengal who were more than territorial magnates.

During the Muhammadan Government the office of the zamindar was recognised as hereditary. The question as to the person in whom the right of property lay was at length discussed in the Grant-Shore-Cornwallis controversy. Mr. Shore declared—

"The rents belong to the Sovereign; the lands to the zamindars."

Seventeen years before the Permanent Settlement, Mr. Francis, afterwards Sir Phillip Francis wrote in 1776—

"The inheritable quality of the lands is alone sufficient to prove that they are the property of the zamindars, talukdars and others to whom they have descended by a long course of inheritance. The right of the Sovereign is founded on conquest, by which he succeeds to the State of the conquered prince; unless, in the first instance, he resolves to appropriate and transfer all private property, by an act of power, in virtue of his conquest....., When the *Moghuls* conquered Bengal, there is no mention, in any historical account, that they dispossessed the zamindars of their land....."

When the British assumed the direct administration of Bengal in 1772 they at any rate found the zamindars in possession, exercising in full the right of proprietors. There were then many Rajas who could date their possession from before the Muhammadan rule, and their possession was not disturbed, rather it was confirmed in some cases in the reign of the Emperor Akbar. The Sovereign Power, whether Muhammadan or Hindu, claimed a certain *portion or share* of the produce of every bigha of land, and, subject to the payment either in kind or cash of such assessment, the zamindar exercised full proprietary rights of gift, sale exchange, etc.; and beyond the Government assessment, all that he realised was his own. The charge of police, the maintenance of law and order, the administration was also in his hands, and the raiyat had no Courts or tribunals where he could appeal questioning the Justice of his demands.

Mr. Shore (afterwards Lord Teignmouth) in his Minute of 18th June 1789 said—

"I consider the zamindars as the proprietors of the soil, to the property of which they succeed by the right of inheritance, according to the laws of their own religion; and that the Sovereign authority cannot justly exercise the power of depriving them of the succession nor of altering it when there are any legal heirs. The privilege of disposing of the land by sale or mortgage is derived from the fundamental right, and was exercised by the zamindars before we acquired the Dewani."

Lord Cornwallis in his Minute, dated the 18th September 1789, said—

"Mr. Shore has most ably, and, in my opinion, most successfully, in his Minute delivered in June last, argued in favour of the rights of zamindars to the property of the soil. But, if the value of permanency is to be withdrawn from the Settlement now in agitation, of what avail will the power of arguments be to the zamindars for whose rights he has contended?"

Again, his Lordship writes:—

"Altogether, however, I am not only of opinion that the zamindars have the best right, but from being pursuaded that nothing could be so ruinous to the public interest as that the land should be retained as the property of Government, I am also convinced that failing the claim of right of the zamindars, it would be necessary for the public good to grant a right of property in the soil to them or to person of other descriptions. I think it unnecessary to enter into any discussion of the grounds upon which their right appears to be founded."

Lord Cornwallis also said in his Minute of 3rd February 1790.

"I admit the proprietary right of the zamindars and that they have hitherto held the collection of the internal duties."

Lord Lyndhurst, that very learned Judge says as reported in Moore's Indian Apeals, Vol. 1 ,page 348, as below:—

"It is to be gleaned from these Regulations that the proprietors of lands in India had an absolute ownership and dominion of soil, that the soil was not vested generally in the Sovereign, that proprietors did not hold it at the will of the Sovereign, but held the property as their own..... I think it is impossible to read those articles without coming to the conclusion that the zamindars and talukdars were owners of the soil, subject only to a tribute, and that it was the object of the Regulation to make that tribute fixed and permanent."

The late Mr. Justice Sarada Charan Mitter in his Tagore Law lecture explained the question very accurately with reference to the case reported in 19 W. R. Page 8 (Rajkishen *vs.* Ramjoy) as below—

"The zamindars were the only class of persons whom in the then existing state of things the Government could look to for punctual realisation of State dues. There was at the time this important body who had widely different sources of origin, but known to the Muhammadan Governors by one name only. Some of them had long ancestries to tell, beginning at a period co-eval, if not anterior, to the Muhammadan conquest of Bengal. Many of them were

hereditary princes, owing only financial allegiance to the authority of the Great Moghuls or his viceroys. Their law of succession was the law of principalities—primogeniture. Even those who were of recent origin were very influential and wielded power not much inferior to that wielded by the very ancient families. The more influential and the intelligent amongst these were, to borrow a modern expression, members of the viceregal council at Murshidabad. They were ministers of State, and the government of the country was practically, to a considerable extent, entrusted to their hands. If we classify them, the first class would represent the old Hindu Rajas of the country, whose ancestors had held independent principalities or principalities that owed only nominal allegiance to the Imperial Government, either Hindu or Mohamedan. The Rajas of Assam, Tippera, Cooch-Behar, Bilaspur, Birbhum and Chota Nagpur may be placed in this class. The second class consisted of the great landholding families that came into existence during the Muhammadan Government through its sufference or favour. The Rajas of Rajshahi, Dinajpur, Burdwan, and Jessore with many others were *de facto* rulers in their own states or territories, and used to pay only fixed tribute or land tax. They were like feudatory chiefs. The third and the most numerous class consisted of persons whose families had held offices for collecting revenues for two or three generations and who thus claimed a prescriptive right to hold on. Then there were the revenue farmers who, since the grant of the Diwani in 1765 had been placed in office and also happened to be called zamindars. Thus all the persons of families known as zamindars in 1790 were not merely *collectors of* land revenue or tahsildars removable at pleasure. The office of zamindar had, in fact, in most instances become hereditary, and they paid fixed sums of money to the Nawab's treasury, more as tribute than as land revenue. The Nawab sometimes extorted more money than the settled or customary amount, but that was not by right or law, but by might or violation of law. When the Government of India, that is to say, the power in England and Governor-General's Council in India, agreed in dealing with all these zamindars in the same way as if they were feudal lords, some of them were no doubt raised in position and emoluments, but the status of many of them was lowered."

The Shore-Grant-Cornwallis controversy and all the controversies that were raised after the promulgation of Regulation I of 1793, was generally on the question whether the property in the soil lay in the Sovereign or in the zamindars. There were of course some contestants on behalf of the peasants, but the precarious condition of their tenures precluded all ideas of proprietorship of the land to lie in them. In the pre-Permanent Settlement days, the tenant exercising the best right was the khudkasht kadeemee tenant who had his

possession secured, but who had no right to transfer, and this precluded all idea of proprietorship. Proprietorship presupposes several characteristics which the zamindars only were in the enjoyment of in those days—

(1) They had the right to sell and make a gift of their lands; and in discharge of the arrears of revenue occurring, their lands were sold, and the possessor stepped into the same right as his predecessor-in-interest held before him.

(2) They had the rights of inheritance.

(3) In case they were deprived of their lands and the Government framed them out to others they were entitled to a "malikana" from his substitute. The word 'malikana' is significant. This right to receive a malikana can only be reconciled with the proprietorship of the land lying in the zamindars (*vide* Ascoli in the Early History of Bengal, page 43).

(4) The uninterrupted and free possession of nankar lands and other free lands is incompatible with any idea of a temporary tenure.

The proprietary right in the soil lay in the zamindars from before the Permanent Settlement, and it was confirmed by the Regulation I of 1793 after a lengthy and protracted enquiry held by no less a person than the Governor-General, which action was confirmed by the then British Government. That the zamindars in the majority were the proprietors was also the opinion of the majority of his Council, and it was also the finding of that great and eminent Judge, Lord Lyndhurst. The zamindars were not created by the Permanent Settlement, but their rights were confirmed, and by such confirmation limited, by the Regulation I of 1793. It also lowered the status of the majority of their class.

Q. 5. The pledge was given not by the East India Company alone and on their own initiative. "In 1784 the Act for the 'Better Regulation and Management of the East India Company' was passed by the Houses of Parliament (24 Geo III C 25) to settle and establish the permanent rules by which the tributes, rents, and services of the Rajas, zamindars, polygars, talukdars and other native landholders should be in future rendered and paid."

The Court of Directors issued instructions to the then Governor of Bengal to act in the spirit of the provisions of the Act.

Lord Cornwallis arrived in India armed with the famous letter, dated 12th April 1786, of the Court of Directors, "who considered that the spirit of the Regulating Act, 1784, would be best observed by fixing a permanent revenue on a review of the assessment, etc. etc." Lord Cornwallis considered the question from all points of view and then

passed the Regulation I of 1793. In his Lordship's Minute of February 3rd, 1790, it is said—

"Twenty years have been employed in collecting information. In 1769, Supervisors were appointed; in 1770, Provincial Councils were established; in 1772, a Committee of Circuit was deputed to make the settlement, armed with all the powers of the Presidency; in 1776, Amins were appointed to make a hastobood of the country; in 1781, the Provincial Councils of Revenue were abolished, and Collectors were sent into the several districts, and the general council and management of the revenues were lodged in a Committee of Revenue at Calcutta, under the immediate inspection of Government. Like our predecessors, we set out with seeking for new information; and we have now been three years in collecting it. Voluminous reports have been transmitted by the several Collectors on every point which was deemed of importance. The object of these various arrangements has been to obtain an accurate knowledge of the value of the lands and of the rules by which the zamindars collect the rents from the raiyats."

Thus "it was determined by his lordships after mature deliberation that the settlement should be declared permanent; and that this determination was approved and confirmed by the authorities in England in a letter from the Court of Director bearing date the 29th August 1792" (Tucker's Review, page 96). "This letter is supposed to have been written under the immediate dictation of the late Lord Cornwallis, and with the entire concurrence of the Ministry of the day, Mr. Pitt—Lord Grenville, &c." (Foot-note to Tucker's book, page 96).

It was thus not a hasty measure. Under the instructions of the Parliament the measure was enacted and "delivered" to the zamindars of Bengal. It was not a gift, it was not a boon, but it promised them an indemnity from ever increasing fluctuations in Government demands, while on the other hand it limited their powers. A tax of 90 per cent. on their gross assets was made permanent, their sayer collections were taken away and, they were made subject to a relentless Sunset Law. The zamindars would not accept it,—they did not pray for,—but the measure was thrust on them; not for any humanitarian grounds but for political and economic grounds benefiting the Company. The then zamindars were living land, and, in spite of the great and responsible limitations imposed on them by the Permanent Settlement, they had to shoulder the responsibility though with great reluctance. The effects of the undertaking of such responsibility were disastrous. A quotation from the Tagore Law Lectures (pages 91

and 92) of 1895 on the Land Law of Bengal by the late Mr. Justice Sarada Charan Mitter will establish this point:—

"The revenue fixed was so high that, within the course of fifteen years, the Rajas of Nadia, Rajshahi. Beshenpur, Dinajpur, Kasijora and many others almost submerged under its wave. The Birbhum zamindar was completely ruined. A host of small zamindars shared the same fate. It is perhaps scarcely too much to say that in a few years a complete revolution took place in the constitution and ownership of the estates which formed the subject of the Settlement. The dismemberment was quick and the ruin subversive of its very principles."

The zamindars vested rights were limited by the measure, and they were subjected to an inexorable Sale Law. Mr. Ascoli in page 74 of his book thus states the case:—

"The main points of objection were the amount of revenue assessed, and the means that had been adopted for the enforcement of payment. The zamindar was faced by the immediate prospect of being liable to pay a revenue, which in view of realising rents from his tenants was very heavy. Over his head was brandished the axe of sale, ready to descend and destroy him if the smallest arrear accrued..... The realisation of arrears of revenue had previously been a long-drawn-out process, often an unsuccessful process; it was now to be certain, automatic, and immediate. In the payment of the revenue the zamindar was confronted by two dangers, that of a year of scarcity and famine, and that of a contumacious tenantry."

The immediate effects of the measure were not very satisfactory as said above. The amount of arrears of revenue increased, though the Sunset Law was being stringently enforced.

To make the measure successful and to ensure the realisation of a certain amount of revenue, the then Government realised, that, unless measures ensuring the realisation of the dues of the zamindars were adopted, there would be no security for the realisation of their own revenue, and so they passed the Regulation XVII of 1793 which declared that the landholders should have the means of "compelling payments from defaulters without being obliged to have recourse to the Court of Justice" and so the power of distraint was provided therein. This measure did not prove very successful, and so Regulation VII of 1799 was passed giving power to the landholders to arrest the persons of the defaulter under process of the Civil Court. This law was further amended by Regulation V of 1812, and these two laws were current for half a century. Thereafter Regulation XIV of 1824 and Regulation VIII of 1831 were also enacted providing for summary suits for arrears to be heard by the Collectors of districts instead of by Dewani Adawlats.

Thus for about half a century the Government faithfully carried out the pledge, and while the zamindars carried out their part of the contract by submitting to the legislation of 1793, the Government also did their part of the contract to do all what was fair and necessary to enable the zamindars to faithfully carry out their obligation. In this way peace was established, jungles were cleared, commerce increased and industries prospered. The zamindars were able also to devote much of their money and time for the development and improvement of estates, digging tanks, wells, etc., by constructing zamindari bunds, by establishing schools and charitable institutions. Thus their power and influence grew with their riches as a result of their investments in land in the full security of the pledge given by the Government of the country, and they thus came to be known as the "natural leaders of the people." This was the ultimate object of the Permanent Settlement. The financiers and capitalists than began to thing that the land must further be taxed and the Government felt that it would not be wise to allow the influence of the zamindars to grow further. It was then that they began to dig out excuses for curbing down their power and influence over tenants and other people. The result was the enactment of Act X of 1859 which manifestly evinced a revulsion of feeing in favour of the raiyats. This policy was continued, and Act VIII of 1869, Act VIII of 1885, and Act IV of 1928 came one after another, further and further curtailing the powers of the zamindars and reducing them to a position of rent-collectors, worse than that of the alleged rent-collectors of the pre-Permanent Settlement days; and lastly the Act VI of 1938 was enacted further reducing the zamindars to a position of nullity left with absolutely all their means of realisation taken away, except by supplication at the door of his tenants, and by the costly and dilatory procedure of Civil Courts. The contumacy of the tenants, which baffled all attempts of the then Government to come to a stable financial situation in the pre-Permanent Settlement days, the same contumacy of the tenants which made the immediate effect of the Regulation 1 of 1793 so disastrous and which resulted in the elimination of several old and ancient zamindars, and to controvert which the Government had to pass several laws as detailed above, became a desirable commodity with the later day Government. It is now the contumacy that counts with the democratic Government. Mr. C. T. Buckland said in his letter No. 115, dated the 22nd June 1875:—

"Instead of every encouragement and opportunity being given for the adjustment of rents privately and amicably between landlord and tenant, a strong temptation is held out to the tenant to defer the payment of his rent, and to have recourse to the advice of the evil counsellers who live by promotion of litigation."

The situation has now been further accentuated inasmuch as by the passing of the Bengal Agricultural Debtors Act an incentive to non-payment has been provided.

The giving of the pledge with the sanction of the Parliament, and the acceptance of the same was a contract and this contract was strengthened by the conduct of the parties to it. The raiyats could not be any parties to the contract, as their position and rights did not give them any status to be a contracting party. Besides, it being a contract whereby the revenue payble to Government was being fixed for ever, and the raiyat never having any obligation to pay revenue to Government they had no status to join in the contract. It is thus such a contract as is enforceable by law.

As regards the charge of crippling the financial resources of the province, the remarks of late Mr. Justice Sarada Charan Mitter in his Tagore Law Lectures on the Land Law of Bengal will be illuminating.

"Financiers in India now regret that there was this Permanent Settlement, as the zamindars of the present day make large profits. That some of them do make profit is undoubted. A good many of them, however, derive title by purchase, i.e., outlay of large capitals. These financiers think that it is the State, and not the zamindars, who should have profited by the increase of the cultivated area in Bengal and the more manifold increase in the value of the produce. But they forget that the East India Company would have been reduced to bankruptcy, if they had not adopted the principle of Permanent Settlement; they forget, that the vested rights of a large number of zamindars required Permanent Settlement, and that taking all things into consideration the State has not suffered, the ancient Rajas and the cultivators of the soil have suffered. In fact, notwithstanding the Permanent Settlement, the amount of revennue has increased from Rs. 2,85,87,722 in 1790-91 to Rs. 3,70,11,385 in 1892-93 exclusive, in the latter year, of a good many districts. The best authorities, I think, are now agreed that the adoption of the principle of the Permanent Settlement was not a mistake."

We have quoted once from Tucker's book in the answer to question 3; and will refer to the quotation again in this connection:—

"Still, there are persons who, witnessing the flourishing condition of the Bengal provinces, and knowing that the rents and income of the zamindars have, in many instances, been immoderately increased seem disposed to impute to Lord Cornwallis an improvident sacrifice of the public revenue. The inference is as gratuitous as the imputation is unjust. The prosperity of the country and the growing opulence of the zamindars, are the happy effects of the 'Permanent Settlement'.

"Those effects would probably never have been produced if the Settlement had never been made. Secure to man the produce of his industry and he will be industrious. Provide for the security of his property, and it will be embarked in works of public utility, advantageous to the individual, and beneficial to the community at large. But if the deadly hand of the tax-gatherer perpetually hover over the land and threaten to grasp that which is not yet called into existence, its benumbing influence must be fatal, and the fruits of the earth will be stifled in the very germ.

"By limiting the demand of the exchequer, the residuary produce of industry became a property, and the labour of the country was stimulated into active employment. A wilderness, as if by magic, was converted into a garden, capital was created; the surplus produce of the soil was preserved; and the abundance of one province, or of one season, supplied the deficiencies of another. Famine, that scourge of a numerous population, has been averted, as far as it can be averted by human means; and during a period of thirty-five years, in which unfavourable reasons and deficient harvests have certainly been experienced Bengal has not only enjoyed plenty at home, but has assisted largely in supplying the wants of other countries."

A raiyatwari settlement as in Madras is a good project on paper if the charges of collection are eliminated. If we refer to page 26 of Tucker's book we find that in the years 1792 to 1892 while the surplus in revenue had grown, in Bombay and Madras there was considerable deficit in 1797-98, and 1804-1805, and the deficit continued in Bombay, in 1813-14, and 1821-22, though there was a small surplus in Madras. Sir Thomas Munro was the greatest advocate of the raiyatwari settlement, and the Supreme Government in its letter of the 14th December 1811 (Revenue Selections, pages 174 and 175) gave the following as their opinion about the proposition of such a settlement:—

"In treating of the advantages which may be derived from actual surveys, your Honourable Court observe, that 'in the management of the conquered and ceded territories which have been annexed to the subordinate presidencies, this course has been successfully pursued', &c., &c. Possessing only general knowledge of the measures adopted with a view to the adjustment of the assesment in the territories dependent on the Presidencies of Fort St. George and Bombay, and of the effect of those measures, we are necessarily precluded from offering any opinion upon the expediency of the surveys made in those parts of the British dominions; but the experience obtained on the subject in Bengal, would by no means warrant us in recommending that a similar course should be observed in the territories dependent on this Presidency. In former times, recourse was not unfrequently had to this expedient; but the chicanery and the corruption practised by the large body of native officers necessarily employed in the performance

of that duty, the exactions and injustice to which the zamindars were consequently exposed, and the heavy expense with which all such surveys were attended, gradually induced succeeding governments to abandon the plan of fixing the public assessment by an actual measurement and computation of the produce of the land of each individual. The practice has long been entirely discontinued, and we are satisfied that the most experienced and capable of the revenue officers would deem the revival of it an evil; but burdensome, and oppressive to the people, and unproductive of any substantial benefit to the pecuniary interests of the State."

In page 135 of his book published in 1825, Mr. Tucker gave the opinion as follows:—

"The principle of the settlement is to take one-third of the gross produce on account of Government; and, in order to render the assessment moderate, Sir T. Munro proposed to grant a considerable deduction from the survey reports. But if it be moderate, how does it happen that the people continue in the same uniform condition of labouring peasants? Why do not the same changes take place here as in other communities? One man is industrions, economical, prudent, or fortunate; another is idle, wasteful, improvident, or unlucky. In the ordinary course of things, one should rise and the other fall; the former should by degrees, absorb the possessions of the latter; should become rich, while his neighbour remained poor; gradations in society should take place; and in the course of time, we might naturally expect to see the landlord, the yeoman, and the labourer. And what prevents this natural progression? I should answer, the officers of Government. The fruits of industry are nipped in the bud."

Again in pages 165 and 166 we find—

"The Honourable Court in their letter to the Bengal Government, bearing date the 14th May 1823, observe generally, that the land revenues of Madras have fallen off considerably since 1813-14, and it is understood that, since the date of this letter, information has been received that remission will be required in that Presidency in the past year 1823-24, to the extent of from 25 to 32 per cent. on the jama or assessment.

"But how does it happen that the revenue should be even stationary at Madras, when it has advanced so rapidly in the Bengal provinces? In our 'ceded and conquered' territory, the revenue has increased in the course of fourteen years; and in the districts in which the 'Permanent Settlement' has been concluded, the rents of the landholders are supposed, in many instances, to have doubled, and quadrupled. Of this fact we have strong presumptive evidence in the augmented value of landed property; and Lord Cornwallis may be said to have bestowed

millions on the people of India, since, prior to the 'Permanent Settlement,' the land had scarcely any saleable value, whereas at the present day, the rate of purchase is, perhaps, higher than in most of the countries of Europe. Is this the case of Madras? Can the privilege of cultivating land, the rent of which it is proposed to raise with the increase of every blade of corn, become a valuable, or a saleable property?"

I have shown above and in also to the answer to the question 4 that, beyond fixing the amount of revenue forever, the Permanent Settlement Regulation crippled the existing rights of the zamindars, took away some of their valuable rights and lowered the status of the majority of them. In spite of the above facts they accepted the Regulation, though with great reluctance, and though, later on, it operated very severely with the majority of them. Realising their difficulties the Government passed several Regulations which subsequently ensured them regular realisation of their dues. Thus the pledge and the subsequent conduct of the parties have been in the nature of a contract, legal and enforceable, and the said contract will make the withdrawal of a pledge after such a long time illegal. The position of the capitalists who invested their capital in land in the purchase of zamindaris in full reliance of the security of the solemn pledge will be stronger in a legal action, on the abolition of the Permanent Settlement or on the withdrawal of the said pledge.

Q. 6. In the answers to questions 3 and 5 it has been shown how and why the country and its agriculture prospered. Mr. Tucker has thus given the answer in page 166 of his book:—

"And how is the improvement in the Bengal provinces to be accounted for? Partly from the stimulus given to industry by the limitation of the public demand on the land; partly, from the greater security of property, which has tended to promote the accumulation of capital; partly, from the existence of large estates (a thing proscribed by the "raiyatwari" system), the proprietors of which find it their interest to lay out capital in the improvement of their lands; partly, from the produce of land being in greater demand to supply the consumption of a population increasing in numbers and in wealth; and partly, from the introduction, or extension, of valuable articles of agricultural produce, such as indigo, cotton, sugar, and the like."

Population of a country follows the opulence of the people; opulence does not follow the population. The country had prospered, it invited settlers, its inhabitants were happy and content, and so the population increased. The lands, which on account of their being no incentive to cultivate were lying uncultivated and waste, began to be cultivated; and the zamindars being the only persons who were vitally interested in extending or developing their resources in

order to meet the very heavy demand, though fixed for ever, were the only agents through whose exertions and capital the waste lands which constituted $\frac{2}{3}$rd of the province were all cultivated, and thus the resources increased. At such a distant date it will be impossible to assess and apportion the credit between the zamindar and the tenant. There were three parties in such a matter, the Sovereign, the zamindar and the tenant. Beyond fixing the amount of the public demand of revenue for ever, it is nobody's case that the Government did anything to extend or develop the agriculture. As a matter of fact before 1871 the Government did nothing to develop the agriculture. In the enclosure to Mr. Beth's letter to Mr. Dundas, dated 15th May 1789, we find:—

"The agricultors of India within and beyond the Ganges, are still in a state very little different from these adscriptily; and are employed to culture the grounds more for the benefit of the princes than of themselves. The Europeans, who have long possessed territory in that country, and have so greatly extended their territory, as well as their commerce, never turned their attention to the object of agriculture, or teaching the natives....."

The advocates of the tenants while they harped on their abject poverty due to the oppressions of the landlords have nowhere said anything about their benevolent or charitable acts, rather they always required the protection of the zamindars and the Government. It can never be expected or presumed that in such a state the tenants would make any helpful contribution towards the development of the agricultural resources of the country. They might have given help to the zamindars in their execution of the work of development, but to measure the value of such help is impossible at this distant date. Of late years we have heard of a tank being dug here and there, but they are very few and rare. The zamindars are the only body of people left in whose favour there is evidence already quoted in the answer to this as well as in the answer to the previous questions, as to their contribution towards the social, economic and educational development of the country.

Q. 7. As I have not the statistics before me, I cannot say anything about the figures given in the question, but this can be said that probably the figures 3 crores refer to the Bengal of the Permanent Settlement days which embraces now the whole of the present Governments of Bengal, Bihar and of portion of the present province of Orissa. That fact should be taken into account in making any comparison.

As regards the increase in the rent roll, it can be confidently asserted that the increase is mainly and primarily due to the cultivation of waste lands. Mr. Colebrooke in 1794 after making enquiries

proved that at the time of the Permanent Settlement one third of the province was under tillage and two third was waste.

At the time of Permanent Settlement the area under tillage was computed by Mr. Colebrooke to be near about 30,000,000 acres which has increased to about 80,000,000, 70,000,000 acres or near about that in 1884. Mr. Robert Knight of the Statesman wrote in December 1884 in the Introduction to Colebrooke's Essay as follows:—

"Assume, as we safely may, that the gross rental of 1793 was four crores of rupees, observed what it ought to be to-day, without any enhancement at all—

1793.	Extended tillage.	Change in money.	1884.
Rs. 4,00,00,000	2	3	Rs. 24,00,00,000

A rental of four crores in 1793 would represent twenty-four crores to-day, from the mere increase of area under cultivation, and the change in the value of money."

Then again—

"With Mr. Colebrooke's invaluable essay in our possession, we are now able for the first time, to produce the following table of comparative statistics, concerning the land of these provinces, under the Settlement of 1793 and in 1884:—

	1793.	1884.
Population ..	25,000,000	.. 60,000,000 upwards.
Acres under tillage ..	31,000,000	.. 70,000,000 acres.
Gross rental on raiyats ..	Rs. 4,00,00,000	.. Rs. 13,00,00,000 (less).
Prices of staples—		
Grain	8 to 12 annas per maund.	Rs. 2 to Rs. 3 per maund.
Ghee	3 annas per seer	.. 12 to 13 annas per seer.
Cattle	4 to 5 rupees per head	Rs. 29 to Rs. 30 per head.
Wages of Labour (unskilled—		
Agricultural ..	8 annas per month	.. Rs. 2 per month.
Urban	..	.. Rs. 6 to Rs. 7 per month.
Value of exports estimate ..	£2,000,000	. £30,000,000
Value of money ..	100 ..	.. 33·0
Gross value of the harvest ..	Rs. 32,00,00,000	.. Rs. 2,50,00,00,000
Proportion of rents to harvests ..	One-eighth	.. One-twenty-fifth.

It is impossible to overrate the value of these statistics in the present juncture of affairs, when the zamindar is accused of having so abused his powers under the Settlement, to rack-rent and evict his tenantry, that it is necessary for the State to cancel the Settlement."

Another cause of increase has been that the lands held by tenants came into khas possession of the zamindar who settled them again with profit.

Enhancement of rents has played a very little part. In fact if the zamindars had been less lenient to the tenants and more attentive towards the increase of their assets in proportion to the increase in the market value of agricultural produce, their rent roll would have been much more. I quote again Mr. R. Knight in this connection:—

". . . . . the zamindar has so apathetically and carelessly, or else so timidly, asserted his right, that he has allowed his rents to fall almost to nothing."

Then again—

". . . . . the zamindar in his turn has asserted his rights so apathetically, or with such timidity that instead of the rental representing to-day as it ought to do, one fourth to one sixth of the produce, it is doubtful if it represents even one-twenty-fifth. Low rentals are the parent of two very serious evils; they lead either to the most careless husbandry, as was remarked by Arthur Young in his famous Tour, or inevitably beget the practice of sub-letting, with its attendant evils of middlemen, and eventual rack-rent. All three processes have been vigorously going on in these provinces since the Settlement. The zamindar has carelessly sub-let to the patnidar, and the patnidar to men below him, until we have a mass of middlemen tenure-holders to deal with, who would never have come into existence at all, had the zamindar but wisely enhanced his rentals as money changed in value, or as the acreage under tillage became widened by the growth of the population. The zamindar's sin has been careless neglect of his own interests, by which the interests of the common wealth have suffered, from their intimate association with his own. Every excuse however, is to be made for him. The Settlement from the very first, made him the butt of every shaft of envy and ill-will. Landlords as a class are unpopular everywhere and always, and there can be no doubt whatever, that it has been the odium incident to every one to attempt to enhance rent, that has made so many of the class sub-let their lands, and the whole body of them show a timidity in the assertion of their rights, that has produced nothing but mischief."

The above remarks supported by the figures gleaned by Mr. Colebrooke will establish that the increase in rent roll was obtained mainly through extensive cultivation of the waste and jungle lands.

What Mr. Robert Knight calls apathy and carelessness was after all probably not so, but the zamindars having their attention engrossed in the extension or cultivation of waste lands, which was bringing them a large yield, would leave the tenants aside to regain their equilibrium after the long years of anarchy and vagaries prevailing in the revenue system of the country prior to Permanent Settlement. For after all, from the experience I have of Bengal zamindars I can say that their attachment to the cause of their tenants is far better than the attachment of those who would abolish the Permanent Settlement, and bring up the rent roll at once to the price of one-fourth of the produce, the standard followed in the days of Emperor Akbar. In fact what are they pleading for? Increasing the resources of the State or of the raiyats? If they mean the former, the raiyats must have to be sacrificed far more than what the alleged rack-renters of old did. As I was saying, the attachment for the tenants, which led the zamindars not to disturb the peace of the tenantry, when money was available from other sources, is the reason why the land was not taxed to the extreme point as Mr. Robert Knight would want it to be.

Q. 8. Answers to questions 3 and 7 may be referred to—

The zamindars were expected to behave with moderation to tenants, and the zamindars did so behave and also act generously by them by not enhancing the rents as they could legally have done. Of course they acted not as self-less altruists. They had their duties to perform, and while performing their duties to their own master—I mean the Government,—they acted very generously, not as Mr. Robert Knight would have them to act. If they had not been apathetic towards their own interests or if there was no Permanent Settlement "Bengal might have yielded the State a revenue of £25,000,000 to £30,000,000 sterling a year from the land alone (kheraj) while the zamindar is ignorantly denounced as rack-renting the soil, by an exaction of less than half the amount." Mr. R. Knight here ignores how impetus was given to commerce and other industries by this moderation of the zamindars.

The disabilities from which the zamindars were suffering immediately after the Permanent Settlement have been stated in the answers to the foregoing questions. These disabilities augmented by the heavy taxation, rendered most of them destitute and insolvent, and disintegrated many of the oldest families. The contumacy of the tenantry in evading the payment of rent, which was one of the principal reasons for the heavy arrears of the pre-Permanent Settlement days, continued even after the Permanent Settlement, and Government had to enact measures to help the zamindars to collect their dues. To restore equilibrium to the zamindari body as a whole while maintaining the stability in the land revenue collections, it took about 40 to 50

years. It was then that the zamindars attained great influence which became the eye-sore to many. Cases of rack-renting here and there were then hunted out to act as an anvil whereon attempts were started to knock down their power, wealth and influence; and this continues up to the present day.

In the action of the zamindar there has always been moderation. There has been the tenancy law empowering the zamindar to enhance the rent every 15 years, and if anybody would care to take a census of the period elapsed before an enhancement had been made in each tenancy, Mr. R. Knight's remarks will be fully established. Another statistics may also be collected from the Civil Courts as to the percentage of suits for enhancement filed in Courts (not suits for increase of rent for increase in area) to the number of all civil suits instituted in the several Courts of the province in any one year. The figures will be illuminating. In my experience of 26 years, first as an Assistant Manager, and then as the Chief Manager of a zamindar having his properties in several districts of Bengal and Bihar, the increases of rents for increases in area, and enhancements obtained during a period of 13 years was very small not even commensurate with decreases sanctioned during that period. The total increases obtained during this period of 13 years was Rs. 3,27,714 of which Rs. 1,29,632 was secured by settlement of khas lands and reformations in the middle of a very big river, thus leaving Rs. 1,98,082 secured by increased rents obtained for increase in area and by enhancements; whereas decreases had to be sanctioned for diluvion, khas purchases etc., amounting to Rs. 2,69,389; and for this there was no enhancement suit nor was any enhancement against the provisions of law. And the major part of the increase was in a mahal which is subject to alluvion and diluvion owing to the fact that three big rivers pass through it. If this is not moderation, I do not know what moderation is.

As regards generous treatment reply has been given in the answer to question 3. In this connection I think I must not be blamed if we again quote from Mr. Robert Knight's remarks on Colebrooke's Essay:—

"Low rentals are the parent of two very serious evils; they lead either to the most careless husbandry, as was remarked by Arthur Young in his famous Tour, or inevitably beget the practice of subletting with its attendant evils of middlemen, and eventual rack-rent. All these processes have been vigorously going on in these provinces since the Settlement. The zamindar has carelessly sublet to the patnidar and the patnidar to men below him, until we have a mass of middlemen tenureholders to deal with, who would never have come into existence at all, had the zamindar but wisely enhanced his rentals

as money changed in value, or as the acreage under tillage became widened by the growth of the population."

Q. 9. It is idle to expect at this date to apportion the activities of the zamindars under several and all other heads of improvement. Generally it has been said in the foreging answers as to how the zamindars contributed to the social, economical, and educational development of the country. Had it been known in early days that the zamindars would have to stand on their trial to prove what they and their forefathers did for the country they would have seen that such a record was kept in the family. The archives of the Government may yet provide details of the doings of the zamindars in the matter of benefactions. Almost all the families of zamindars, either new or old, Hindus and Muhammadans, can cite instances of acts of generosity done for their tenants or the public either, by their forefathers or themselves. As regards absenteeism, that is a device of recent origin manufactured to condemn the zamindars. There are so many zamindars, landlords (patnidars and middlemen of all grades) in the province, and about 90 to 95 per cent. of them live in the village, toiling out their lives now in supplication to their tenants for their bare living. About the 5 to 10 per cent. of the zamindars who constitute the big landlords, they have zamindaris in more districts than one, some in fact spread out all over the province and outside it, and I do not know how they can be expected to live in every part of their estates. They are generally alert to their own interests as well as to the interest of their tenants, they keep all information about their tenantry that is required, and they fully are acquainted with the contumacy, with which their tenants have been evading payments of rent.

I shall conclude this answer with a quotation from the report of the Simon Commission 1929:

"Whatever may be said for the wisdom of the policy carried out by Lord Cornwallis and however absolutely the guarantee then given to the zamindars and their heirs must be fulfilled, the consequences at this time of the day are remarkable."

Q. 10. "Greatest good to the largest number" is an ethical principle. I have no knowledge as to how it has ever been applied to political science. A political entity cannot live on the principle of "greatest good to the largest number". An imposition or a tax cannot be imposed on this principle. Above all, it was never asserted or declared, that by the assertion or acknowlegment of the right of proprietorship in the soil, the principle of greatest good to the largest number was being followed. The Sovereign, the conqueror of a country was declaring the right of a class of his subjects,—nay was recognising such a right, and it was not expected that he would then

be declaring the ethical principle. A king or a conqueror making a grant of a right, or of say a jaigir, cannot be expected to be acting on the said ethical principle.

In my answer to questions 3, 5 and 6 I have quoted freely from Mr. Tucker's book "Review of the Financial situation of the East India Company" published in 1925, to show how the country progressed immensely from the Permanent Settlement. The failure of the raiyatwari settlement in Madras has also been shown in my answer to question 5. Besides, the cost of collection of revenue in a raiyatwari system is not to be ignored. I may be allowed to quote again from the foot-note of Page 125 from Mr. Tucker's book:—

"*See* Sir T. Munro's Letter of the 30th November 1806—'Revenue Selection,' page 94.

If this be the utmost which an experienced Collector can accomplish, what is to be expected from an inexperienced Collector, as described by Mr. Thackeray, one of the advocates of the 'raiyatwari system'? He observes, 'overzealous, but honourable young men, might plunder the country more completely perhaps, than a Mahratta army could have done.' Now, this system, embracing as it does multitudinous details, requires a greater number of Collectors than any other; or (what is worse) a greater number of native officers. *See*, also, Mr. Thackeray's opinion on surveys 'Revenue Selections,' page 859. 'If, indeed, the survey had been equal at first, and could continue so, no loss would result from this freedom (*i.e.*, liberty to throw up over-assessed lands) because the rent being everywhere exactly proportioned to the value of the land, the raiyat, wherever he went, and whatever extent of land he occupied, would have to pay the proportionate rent. But, no survey rate can be so nicely adjusted at first; and, if it could, would soon change. The value and rent of land fluctuates like the value of anything else. But, even at first, we cannot so nicely appraise earth; and, if we could, ten thousand mistakes must find their way into a survey. Frauds cannot be prevented, and erroneous principles are frequently adopted.' And yet this is to be the foundation of the raiyatwari settlement!"

Again Mr. Tucker writes in pages 165 and 166—

"The Honourable Court in their letter to the Bengal Government, bearing date the 14th May 1823, observe generally, 'that the land revenues of Madras have fallen off considerably since 1813-14; and it is understood that, since the date of this letter, information has been received that remissions will be required in that Presidency in the past year 1823-24, to the extent of from 25 to 32 per cent. on the jama, or assessment.'

"But how does it happen that the revenue should be even stationary at Madras, when it has advanced so rapidly in the Bengal provinces?

In our 'ceded and conquered' territory, the revenue has increased in the proportion of about one-third in the course of fourteen years; and in the districts in which the 'Permanent Settlement' has been concluded, the rents of the landholders are supposed, in many instances, to have doubled, and quadrupled. Of this fact we have strong presumptive evidence in the augmented value of landed property; and Lord Cornwallis may be said to have bestowed millons on the people of India, since, prior to the 'Permanent Settlement', the land had scarcely any saleable value, whereas at the present day, the rate of purchase is, perhaps, higher than in most of the countries of Europe. Is this the case at Madras? Can the privilege of cultivating land, the rent of which it is proposed to raise with the increase of every blade of corn, became a valuable, or a saleable property?

"And how is the improvement in the Bengal provinces to be accounted for? Partly from the stimulus given to industry by the limitation of the public demand on the land; partly, from the greater security of property, which has tended to promote the accumulation of capital; partly, from the existence of large estates (a thing proscribed by the "raiyatwari" system), the proprietors of which find it their interest to lay out capital in the improvement of their lands; partly, from the produce of land being in greater demand to supply the consumption of a population increasing in numbers and in wealth; and partly, from the introduction, or extension, of valuable articles of agricultural produce, such as indigo, cotton, sugar, and the like."

That the fact that the rents have not increased four *times than* what they were at the time of Permanent Settlement, *though the prices* have increased much over 16 times, is a good that has scarcely been prevalent in any part of India. That this rate was followed even in the settlement of the waste lands, even though the Regulation I of 1793 gave the landlords all powers to impose such rates as they might like to settle new lands, is another good that was prompted by the said Regulation. Interference with internal commerce and manufacture, which zamindars used to make profit by, was forbidden, as they were resumed by Government which has developed them and so industries have prospered. Landlords or those capitalists who come in their place improved their resources from lands, I have said above, by reclaiming the waste lands and investing money on them, and in this were assisted by the laws enacted by the Government for the due payments of rent to them. There was expense or sacrifice of no kind by the tenants. In fact since 1859 all enactments passed have been for their advancement, and reduction and to the prejudice of the interests of the landlords till now, when they are nothing but rent-collectors, and when for the punctual payment of land revenue and for meeting their bare necessities, they have to depend on the sweet will of their smallest tenants. Cesses upon cesses have been unceremoniously imposed in

contravention of the Regulation I of 1793 on the plea that they were not tax on land but cesses on land. Education cess—which is a tax for knowledge has come, and over that all sorts of limitations in the way of prompt and due realisation of their just dues have been imposed in the shape of Agricultural Debtors Act. The result has been that the rate of revenue and road and public works cesses on each acre of land which had already gone up, has still further gone up by the imposition of education cess; and the realisation of rents on the other hand has been crippled. It is generally known that the acreage rate of revenue in the western districts of the province is much higher than the rate in the eastern districts, and this was mostly due to the fact that at the time the Permanent Settlement was concluded the country that side was full of waste lands, marshes and jungles.

It may be contended that the zamindars are only charged with the payment of the cesses, whereas beyond a certain percentage they can collect it from their tenants. They, however, forget the fact that the khas lands most of which do not yield any profit have been so highly assessed, and due to diluvion, reduction and non-payment, a large percentage cannot be collected every year; and the inequity lies more in the fact that the zamindars are not allowed any collection charges.

As an example I would cite the following instance. In 1344 B.S. (1937-38) the estate, which I have the honour to serve, was charged with educational cess for its mahals in the district of Mymensingh. The demand was near about Rs. 64,000 a year, but as the notices were served late, quarter was remitted for that year. Thus the demand for the year was about Rs. 48,000, out of which, with the utmost possible dilligence and strictest supervision, only about Rs. 22,000 was possible to be collected. This year there could be no collection, so to say, under this head on account of distress.

This is the wanton sacrifice to which the landlords have been subjected to, and this sort of oppression started since the year 1859. Against this the tenants have nothing beyond some reports collected here and there about the oppression of a landlord. Black sheep there must be in every fold, but the generality of the landlords should not be convicted therefor, inspite of the glowing tributes given to their benevolent acts by Government, press and other public bodies.

I cannot close this answer without an observation about the tenants in general. Their social, economical and education uplift for which the zamindars, as I have said above, contributed not a little, do not continue to be the same now, as they were before even 1885. By the overzealousness of their supporters, who seem to have overshot their mark, their rural credit has absolutely been killed. All the local

institutions to which they used to look up to in times of adversity have been abolished or strangled, and now it is not an uncommon sight that a tenant having cattle, horses, lands, etc. and, with all their rights extended, increased, and made valuable by successive legislation, cannot raise even a small sum of money in their extreme distress except with extreme difficulty.

The Permanent Settlement is the only responsible factor in the creation of the middle class of Bengal, which is so strong in even the whole of India. This is a "good", which the enlightened section of our countrymen cannot but be grateful for to the great measure.

Q. 11. This question after all has given the patent objection of the critics of Permanent Settlement. These critics have been out to destroy an edifice, built up by usage, law and sanction. However I shall attempt to give a reply to the objections.

Objection (i).—Whether 80 per cent. of the income is appropriated by the zamindars of permanently settled estates alone is difficult for me to say in the absence of statistics; and whether the 80 per cent. is calculated on the net return has not been made clear. If the 80 per cent. comes from the actual cultivator or the tillers of the soil, the income is not appropriated by the zamindars alone, but the several grades of intermediate tenants intercept it as between the zamindar and the tiller of the soil, with the result that like the Government the zamindar cannot come in for his share for over 25 per cent. of the total income. Another fact has to be considered. If the 80 per cent. of the income was the portion of a zamindar, the value of a *zamindari* property would not have gone down so much as in the present day. One has also to consider if the zamindar is on the same footing with his predecessor of the Permanent Settlement days. Devices upon devices have been manufactured to whittle down their influence and profits. Before the Permanent Settlement, beyond the usual rents, they used to realise cesses, duties, taxes and abwabs and their collections from them were more than double the amount of rent. (*Vide* the remarks made in the letter No. 115, dated the 22nd June 1875, of Mr. C. T. Buckland quoted in the answer to question 1.)

There was in fact no limitation to their demands from the tenants. The Permanent Settlement stopped all these realisations and fixed the amount of revenue forever, at the same time declaring that there would be no calls upon them augmenting the revenue. For about 40 years they faithfully carried out the pledge. Then came the road and public works cesses, which avowedly charged both the zamindars and the tenants with a cess, but the Government realise the full amount from the zamindar who is left to the whims of the tenants, the Courts and the caprices of the weather, to collect his contributions made on behalf of his tenants. There is no provision for

the collection charges. The Chowkidari Act, Local Self-Government Act, the Embankment Act added burden upon burden, and above all came the burden of the education cess. The net result now is that the zamindar is now left with the minimum share of the total income,—80 per cent. or whatever it may be, at the present time.

Not content with all this they have put clogs to the wheel by adding to the difficulties in realisation in the shape of Agricultural Debtors Act, and by amending the Tenancy Act.

Objection (*ii*).—Subinfeudation was there before the Permanent Settlement though in another shape,—Mr. Colebrooke writes in his famous book in page 42:—

"Another distinction arises from the practice of tenants underletting their lands to other persons. This class of middlemen is numerous. Some are authorised by the nature of their tenure where the rents and limits of the farm are fixed and ascertained; others have an express permission inserted in their lease; most have no justification for this practice which has grown up by abuse, and which is highly detrimental."

And further in page 54:—

"Where Government turned its attention to check these abuses, and, without discontinuing a farming system or relinquishing a high revenue, endeavoured to regulate the conduct of the farmers and to enforce a strict adherence to all existing engagements with occupants and cultivators, the farmers, thus controlled in their avowed oppressions, had recourse to indirect methods. Favouring a few cultivators, they obtained, through their influence, general agreements to authorise exactions and imports. Peasants became farmers of revenue, with a view to granting, on their own authority, reductions in the rent of the lands occupied by themselves; and continued to farm revenue that they might perpetuate their undue advantages. The peasants at last were discouraged by an unequal assessment; and the favoured few did not use to the best advantage of the lands which they held, but formed that class of intermediate tenancy, which has been already mentioned in another place."

The Permanent Settlement wittingly or unwittingly has been the cause of perpetuating or increasing subinfeudation. If one is allowed to draw any inference one should say that the high revenue has been the cause of the continuance of subinfeudation. To shift the responsibility as far as possible on others has been the keynote. By Permanent Settlement the very high rate was maintained, and as a result the big zamindaris came to grief. That disintegrated the big zamindaris and the laws of succession did the rest. As a result the numerous petty landholders grew up and subinfeudation increased more

as an attempt to divide the responsibility to pay the rent or the revenue. The tenancy laws since 1859 have done the rest mostly for subinfeudation amongst the tenantry, by giving absolute powers to raiyats to sublet, and also by the creation of occupancy raiyats invested with more and more powers wrested from the zamindars. Legislation after legislation and especially the Tenancy Law of 1938 have been enacted for the benefit more of these raiyat-landlords, though the Act is professedly intended for the benefit of the actual tillers of the soil. The status of the occupancy raiyats is now in a sense better than the zamindars. The right of the occupancy raiyats has been made transferable in every way, enhancements of their rents have been stopped they can alienate, bequeath, give away, and inherit in the same way as the zamindar, whereas though the zamindar is subject to an inexorable Sale Law, the occupancy raiyat has been given enough opportunities to evade payments of rent to the landlord, or as a matter of fact to evade the decrees of the Highest Court in the province. Subinfeudation has thus conferred great benefit, not to the zamindar, not to the actual tillers of the soil, but to the raiyat-landlords.

Objection (iii).—About enhancement the answer to question 7 may be referred to. Mr. Robert Knight accused the zamindars of being apathetic and unmindful of their own interests in not having enhanced the rents of their tenants proportionately to the increase in the market value of agriculture produce, and they are also accused by the advocates of the raiyat-landlords as having enhanced their rents oppressively. One may exclaim "advance you are condemned, go back and you are still more condemned". This is the position of the zamindars.

Mr. Robert Knight says in his introduction to Mr. Colebrooke's essay :—

"The Settlement from the very first, made him (zamindar) the butt of every shaft of envy and ill-will. Landlords as a class are unpopular everywhere, and always, and there can be no doubt whatever, that it has been the odium incident to every attempt to enhance rent, that has made so many of the class sub-let their lands, and the whole body of them show a timidity in the assertion of their rights, that has produced nothing but mischief."

Objection (iv).—In my reply to objections (*i*) and (*ii*) I have shown as to how the position has been converted. The overlordship over the actual cultivators of the soil now lies with the raiyat-landlords whose position as regards the zamindars is now that of the "favoured wife" of the Government—rather imposing on the zamindars, than the zamindars imposing on them.

Q. 12. My answer to the question is an emphatic "No". A system which originated in the great minds of great administration like Lord Cornwallis, Mr. Shore, Mr. Francis and others of the same

calibre, the system which was approved by great statesmen in England, men like the celebrated Mr. Pitt, Lord Grenville, Viscount Melville, etc., the system that has worked wonderfully well and prospered, the system that has stabilised the British connection in India, that financed the British to fight its war of annexation in southern and northern India, cannot be abolished at least by the British Sovereign. It can be abolished out of spirit of grudge to kill the goose which has laid eggs, but it cannot be the work of British statesmen. The present Government "may take by force" in 1938 what its predecessor "forced the zamindar to buy in 1793" in order to serve its purposes, but I do not know if that will be a fair and honest deal.

In a note written by that great revenue administrator of recent days, Mr. F. D. Ascoli, he observed:—

"So far as the legal and constitutional position of the zamindars of Bengal and Bihar is concerned, there can be no question at all. The Regulation under which the Decennial Settlement was made permanent, *viz.*, Regulation I of 1793, is definite, precise and categorical. Subsequent legislation, such as the Patni Taluk Regulation in 1819, which definitely legalised the creation of tenures at a permanent rental, still further stabilised the position and made the Permanent Settlement the basis of the whole land tenure system of Bengal and Bihar."

Mr. Ascoli has further gone to say in the same note:—

"But the question does not depend solely on legal and constitutional rights. It is my firm and considered opinion that the whole of the social and economic structure of life in Bengal and Bihar, from the zamindar to the raiyat is based on the Permanent Settlement, and any interference with that structure can only result in an upheaval which would be synonymous with revolution."

Q. 13. The Permanent Settlement was not a hasty measure. It was a measure enacted after mature consideration and all the points raised were then discussed and thoroughly thrashed out—(*vide* Mr. Shore's minute, dated 18th June 1789, and Lord Cornwallis's Minute of 3rd February 1790).

Costs of collection cannot be ignored while thinking of the anticipated increase to be derived direct from raiyats. Percentage of collection from temporarily settled estates and khas mahals has always been less than the percentage of collection from permanently settled estates.

The remarks of Mr. Tucker in his book "Review of the Financial Situation of the East India Company" in 1824, which I have referred to at the end of the answer to question 5 may be referred to as regards raiyatwari settlement.

Temporary settlement will be no substitute. Had it been so good a measure, the results of collection will not be so low as compared with the collection of the permanently settled estates as shown in the recent Land Revenue Administration Reports of Government. In some cases private zamindars were compelled to take settlement of some such estates owing to their situation being in the midst of their permanently settled estates, but with the rapacious enhancements of revenue many farming leases have not been renewed. It will be interesting also to know the percentage of collection of revenue of the temporarily settled estates with that of the permanently settled estates.

As regards the imposition of a tax on agricultural income, it will be thoroughly subversive of the Permanent Settlement. Agricultural income has up-to-date been held to be non-taxable in view of the provisions of the Regulation I of 1793. That tax will be a tax on land. A reversal of the pledge given will be illegal and will have disastrous effect as shown in the answer to the previous question.

Q. 14. I advocate the continuance of the zamindari system, and strongly urge on the Commission to make such rules as further attempt to get round the principles underlying that system cannot be made, keeping the skeleton of it untouched. The Government did nothing for agriculture, for education, till recently, and the entire burden having been thrown on the zamindars, they tried their very best, and the country has been now what it is. Encomiums have been showered upon them, abuses have been hurled upon them, but the latter stuck whereas the former have been completely forgotten. Inroads on their rights derived from the Permanent Settlement have been made by the Cess Acts and several Tenancy and other legislations as narrated above; and the result has been the creation of another body of landlords stronger and far more immune than the zamindars. These insidious attempts to get round the Permanent Settlement should be effectively stopped.

If it is decided to acquire the zamindaris by paying compensation, this may be done; and if it is done in a fair and square manner after giving due consideration to all the peculiar features of every estate, the zamindars will be glad to get rid of the present questionable security of the Permanent Settlement. Market value or capitalised value of the income of last 10 years or so,—the period of economical depression when the collections of zamindars suffered considerably,—will not be adequate. If the hastabood, or the current demand is taken, and its capitalised value of say 20 years purchase is given, it will then be fair. In arriving at the capitalised value the provisions of the Land Acquisition Act may be adopted but due consideration to separation, and loss of prestige should be duly made—in assessing the value.

In assessing the value the prospective enhancement of rents should also be duly compensated for. The average rate of rent of the raiyats is very low and it can be fairly enhanced. The demand of an Estate should be calculated giving due consideration to the enhancement of rents of its tenants that may fairly be made and on that capitalised value should be arrived at after deduction of revenue and cost of collection.

Q. 15. Compensation may be paid in bonds carrying interest, but the bonds should be Government of India bonds. The bonds may be made redeemable on cash payment after a period to be fairly determined by the Government of India. The rate of interest should be in the minimum 6 per cent. per annum; and this interest should be free from income-tax, as the bond will be in lieu of a permanently settled property—where there can be no further tax on land.

Q. 16. If the Government stops its march after acquisition of zamindari rights, and does not disturb or interfere with the tenure system, the result will mean neither any advancement nor any deterioration in the status of the tenantry. If however they will go on as in the khas mahal or temporarily settled estates, the collection costs will increase, fraud and dishonesty in its agents will creep in and the stabilised system will become disintegrated so that it will take time before a system is evolved out and equilibrium is restored. I have no experience of the system working in the ceded provinces, etc., where long temporary settlements are made; and so I cannot give a correct answer what the result of such a system will be.

To get at the actual cultivator, and to improve his lot, the zamindaris and the interests of the various intermediate landlords will have also to be purchased, and then only the tiller of the soil can be benefited and the resources can be appreciably increased. Otherwise if the principles of preparation of rent roll of temporary settled estates are followed, it will mean an assessment so high for the tenure-holders and other middlemen, that it will mean a total annihilation of this class which has been the creation of the Tenancy Laws since 1859. I should state that in the preparation of rent roll of a tenure or a tenancy having under-tenants, the rentals assessed on the lands of the actual cultivators and the value of the khas lands in the possession of the middlemen as determined according to a certain rate fixed by the Board of Revenue are taken, and, from the total of the same a deduction of 30 per cent. for collection charge and profit is allowed to settle the rent payable by the middleman to his landlord. This rent is very high, has been found to be very high as compared with the rent paid by the middlemen to the zamindar before the resumption of the land as dearah and before it was converted into a temporarily settled estate; the rate of rent paid before the resumption having been less than half of the rent realised by him from his tenants.

Thus the result of the abolition of the zamindari system will in the words of Mr. Ascoli be "an upheaval which would be synonymous with revolution."

Q. 17. If any real good is intended for the actual tillers of the soil, and if the zamindar has to go, there is no reason why another body of landlords should be allowed to remain. That would not be a square deal firstly; and secondly it will depend with what motive the proposed expulsion of zamindars is suggested. If nationalisation is intended, then all landlords of whatever denomination must go. If improvement of agriculture is intended then the material condition of the actual tillers of the soil must be improved upon, by grants from Government as well as by a reduction of rent, now being paid to the raiyat—landlords by the tillers of the soil. If improvement in the resources of the State is intended, I am sceptic about the result. The Government's expense of collection will increase considerably, and their attention will be directed mainly towards this source of revenue and away from the other spheres of action, mainly from the nation-building departments.

Q. 18. This is a question which will be best answered by the proposers of the measure who know what their intentions actually are for proposing such a subversive measure. A scheme may be made out when criticism may be made of it.

It can only be said that, with legislation coming in after quick succession, the establishment costs of each zamindar have increased, and there are several departments and big record-rooms to be maintained. The Government have facts before them, having about 70 per cent. of the estates under Court of Wards, and having so many khas mahals, Government estates, attached estates, temporarily settled estates in their charge, and the Board of Revenue will be the best agency wherefrom an accurate answer may come.

Q. 19. It is impossible to say what a body of persons would prefer, and what not. It is their mentality, their situation, their power of discernment, and their credulity and the influence of people and other outside agencies that determine their expressions of preference or non-preference. Political inclinations also will lead one class of men one way and another class of people the other way. I do not think all measures have been introduced following the inclination of the people. In groups, social, political, economical, agricultural, and in all the different forms of polity, the preferences of people are always different, and in some cases the opinion or preference of men of inferior mentality is guided by a person of superior mentality. So I must not attempt to state what may be the opinion of others. I may only state my experience with reference to one particular question. When the education cess was imposed recently in the district of Mymensingh where

Maharaja Tagore has got extensive zamindari, I, as his Chief Manager was told by a large number of raiyats, middlemen and cultivators of the soil, that they did not like the measure, principally as it imposed a taxation which they could not bear; that the condition and topography of the country was such, that unless there was a school in every village, or in every group of hamlets, they could not send their children to a distant school for about 4 or 5 months in a year; that when cultivation was in full swing they required their sons rather to help them; and that the education that has so long been given being of no use to them, they had no use of it if they were to have it at such a huge taxation. Others said that they had no sons to educate and so they did not want the measure. The more intelligent section held meetings in which they expressed their disapproval of the measure and sent copies of the resolutions to Collector, Premier and every one concerned. Of course there were some jotedars—more politically minded,—who were for the measure, and though they admitted the above objections, they were of the opinion that for a good end sacrifices were necessary. This opinion was of a very small body of persons. And still we have the education cess thrust on the people, like other measures. In 1793 all the zamindars did not want the Permanent Settlement, but it was thrust on them.

Thus it does not matter what a class of persons does prefer. The question is rather what they should prefer.

As regards the khas mahal and temporarily settled tenants enjoying advantages over tenants under the proprietors of permanently settled estates, the question is rather wide. The raiyats directly under the zamindars of the permanently settled estates of course enjoy, the best advantages, as compared with the advantages enjoyed by the raiyats under raiyat-landlords, or other middlemen, especially with regard to the rate of rent. The rate of rent paid by a raiyat direct under the zamindar is much less than the rate of rent paid by the raiyat of a raiyat-landlord or other middlemen, for the obvious reason that these raiyat-landlords and middlemen intercept the income from the actual tillers of the soil.

The proprietor of the temporarily settled estate on the other hand is burdened with a tax amounting to 70 per cent. of the gross demand, and in my answer to question 16 above, I have shown how the gross demand is arrived at. So no room is left to the proprietor for the exercise of any acts of leniency or concession, which are usual with a zamindar of a permanently settled estate. I have also never come across a Revenue or a Khas Mahal Officer who has prepared the rent roll of temporarily settled estate at the expiry of a term of settlement, acting on the principles of humanity or affording relief to the tenants in the matter of rents. Their eyes are generally directed to securing an increase in the rent roll, whatever may have been the permanently settled estates.

As regards khas mahal tenants I have very little experience, but I am told that the rate of rent obtaining in the khas mahals is much above the rate obtaining amongst the tenants direct under the zamindars of the permanently settled estates.

So far for the rate of rent. It must not be forgotten however that the rate of rent of the raiyat cultivators holding under middlemen and raiyat-landlords is much above the rate of rent prevailing in tenancies held direct under zamindars, and also in temporarily settled estates.

As regards other advantages, I should say that I have experience of several temporarily settled estates, where the material condition of raiyats is decidedly much inferior to the condition of the raiyats under the permanently settled estates, even worse in some cases than the condition of the raiyats holding under middlemen.

In this connection I may be pardoned if I quote from my own experience. When in the districts of Mymensingh and Rangpur any tenures or raiyati holdings are made khas, the settlement is entered into directly with the under-tenants who may be on the lands, and when these under-tenants can pay a portion of the dues for which the tenancy or holding was purchased khas, the rate of rent that was being paid to the jotedar by the under-tenant is, in many cases, much reduced, and the under-tenant evinces satisfaction to come direct under the zamindar. This has been the case at Midnapur also in the settlement of the tenancies under patnis that were made khas.

It has also been my experience that when a person has got funds to meet the demand of premium in cases of settlement of khas or garpatni land, he would gladly like to take settlement under a zamindar, than under a raiyat or other intermediate tenure-holder.

Then again the demand of a premium in case of new settlements is generally moderate, and according to a fixed standard rate, except in cases where there is keen competition; and whereas cash payment is insisted on by a zamindar, such demands of premium from tenant-cultivators by the intermediate tenant are generally heavy and they are ordinarily met by execution of notes of hand; and this enables them to bid higher than a rival competitor, with the result that the bid is excessive and leads the poor cultivator into further indebtedness. This will show that the zamindar is not after all such a bad man generally as he is painted.

Landlordism and capitalism are the principles which are abhorred by a class of persons who are now in the majority. Though doctrines and dogmas there are against these institutions, I should say the real motive for such inclination is mainly envy and ill will.

I may again be permitted to quote Mr. Robert Knight from his introduction on Colebrook's Essay—

"The settlement from the very first made him (the zamindar) the butt of every shaft of envy and ill will."

Q. 20. Subinfeudation was there from before the Permanent Settlement. The first part of this question has been dealt with in the answer to question 11 (ii),—and I shall deal with the second part of the question.

The Permanent Settlement did not affect or alter the position of the raiyats, except that it continued the subinfeudation which has been the cause of the high rent, not of the raiyats, but of the cultivators of the soil, who are the tenants of the raiyats and other middlemen; but for that, the extortionate taxation at the time of the Permanent Settlement was indirectly responsible. On the other hand the subsequent tenancy legislations passed since 1859 up to the present day have secured to the raiyats of the zamindars very valuable rights, which were in the exclusive enjoyment of the zamindars. So much so, that the tenants have now got the whip-hand and the zamindars depend now on their sweet will.

I have shown that the condition of the country prospered after Permanent Settlement, but whether there has been any improvement in the material condition of the raiyats since 1885, I have discussed in the latter part of my answer to question 10.

The Patni Taluk Regulation of 1819 has been the effect of Permanent Settlement Regulation. By the Permanent Settlement Regulation the zamindar's power to transfer, lease or gift, etc., was recognised, and by Regulation VIII of 1793 the zamindar's power to let out his lands "in whatever manner he may think proper" was also confirmed. The revenue was so very high, that the large zamindaris were disintegrated, and instead, there came into existence several small zamindars, who, realising the dreadful responsibility of such a high taxation, retained for himself some lands as nij-jote, khamar, etc., and let out the rest to permanent tenure-holders and other middlemen, thus dividing the responsibility to meet the heavy revenue demand.

Q. 21. This question will be best answered by a student of political economy; but from the standpoint of a layman I should say that it would have some good effect on the economic position of the province, if the rents, etc., of the raiyats are maintained in their present figure, and if the intermediate tenants are all abolished or brought up with the zamindars; though the costs of collection and management will be very heavy and the profit will not be so high as expected. Of course, in stating the above, I take the meaning of the province as synonymous with that of "State".

I do not understand what is meant by the "social" position of the province.

With reference to the tenure-holders, I should say that if the interests of the petty zamindars, talukdars, patnidars, tenure-holders and other middlemen are acquired, there is no reason why the raiyat-landlord, a creation of the tenancy legislation will be allowed to remain; and if all these middlemen, etc., are bought up, the chief contribution of Bengal to India in general, a product of English civilisation and culture—I mean the middle class—will be strangled, and in my opinion will be much prejudiced thereby. The profession will be stifled, the agency which supplies the motive for all enterprises, social, and political will be gone, and the financial consequence will be disastrous. The present tenure-holders, deprived of their rights, will be reduced to the position of absolute bankruptcy.

Q. 22. In case of purchase, the question will primarily lie with the purchaser as to how he will dispose of the subject of his purchase. The zamindars who object to the compulsory acquisition will be mainly indifferent, but if their likes and dislikes are consulted, the case of each should be dealt with individually. Many of them would like that, if the valuation of the estate is made on its hastabood or rent roll, the valuation of their homesteads and private lands should be made separately according to their market value and added to the valuation of the estate on hastabood. Others will like to retain the homestead or the private lands, or both, on terms as determined by the purchaser and themselves, after consideration is made of the advantages and disadvantages of the position with respect to the individual zamindar.

In determining what is or what is not the proprietor's private khas land, the provisions of section 120 of the Bengal Tenancy Act may be followed.

In the determination of other khas lands of the proprietor the following consideration will have to be made.

There are several classes of khas lands:—

(1) Reformations *in situ* of the lands of a village which had been lost by diluvion, and for which no abatement of revenue was taken or granted.

This question will involve a question of law; and the procedure of compulsory acquisition followed for such lands must be different. If the mauza was the unit of assessment at the time of the Permanent Settlement, and if for the diluvion of the lands of mauza no abatement of revenue was taken or granted, the proprietary right of the zamindar on the reformation is strengthened, and the Government's obligation to confirm the zamindar in the possession of the reformation

becomes heavier; and so the payment of compensation for lands under water at the time should also be made. This fact should be one to which due consideration should be given.

(2) Proprietor's private lands both in his own occupation, and in the occupation of tenants. Private lands of all classes should be valued in the same way as vacant lands.

(3) Lands purchased khas for outstanding dues of tenants whether possession has or has not been taken, and whether even after symbolical possession has been taken the lands are still in the possession of the old tenants or other trespassers should all be taken, into consideration; and, as if the land are in zamindar's khas possession they should be valued separately as his private lands. This is another class of land where the proprietary right has been strengthened by his purchase of the tenant's rights; and as such additional compensation has to be paid.

(4) Where there has been merger of the tenure-holders' interest in a land, there should be two valuations for the same lands;—one for the zamindar's interest and another for the tenure-holder's interest which has merged.

(5) Other khas lands appertaining to the estate which are at the time under water. These lands have a value and this value should be added to the value of the estate arrived for hastabood.

The criterion for the ascertainment of zamindar's and tenure-holder's khas lands should then be—

(*a*) the Survey and Settlement record;

(*b*) where there is no such record, zamindar's papers, mainly his chitha, khatian and jamabundi, should be looked into;

(*c*) boynama and certified copies of the judgment and other orders of Courts showing khas purchase of the lands should be referred to;

(*d*) proofs of surrender and abandonment by tenants;

(*e*) cadastral survey map, pargana map, or other map or papers, showing the area that is under water.

Q. 23. The occupancy right is out and out the creation of British legislation which started in Act X of 1859; and this creation was made investing the khudkasht tenants of old with rights which were unknown to them from long before Permanent Settlement, and by extending those rights to the paikasht raiyats also, who had absolutely no semblance of these rights. Since 1859 the rights have gone on to increase in defiance of the rights of the zamindars, recognised and affirmed by the Permanent Settlement.

In the old days there were no occupancy raiyats; or raiyats having any rights akin to what they are now in the enjoyment of in the present days. Colebrooke writes in page 39 of his Essay (1794):—

"None of the tenures of Bengal are secure except those by which the rent of an ascertained farm, or field, or of specified quantity of land, is fixed by a lease granted previous to cultivation, for a definite term, or for perpetuity; whether the permanency of it be expressly stipulated; or the lease be framed, as is not uncommon for an infinite period."

Then again at page 38—

"The simplest tenure of this kind requires an annual adjustment upon the actual cultivation. But in many places the raiyats is bound to make good the same amount as in the preceding year, and to pay the excess, if any. This becomes a different tenure; and the stipulation ought to be expressed in the lease."

At pages 41 & 42 he writes—

"A tenant, who cultivates the lands of a distant village, cannot be placed on the same footing with one who uses land in the village wherein he resides. Indulgence in regard to his rent is allowed for the purpose of enticing the distant cultivator; and the inconvenience of remote cultivation makes it necessary that he should be at liberty to relinquish at any time the land which he uses; and, consequently, his own continuance being precarious, he cannot have a title of occupancy, which shall preclude the landlord from transferring the farm to a resident husbandman desirous of undertaking it."

The Permanent Settlement did not lay any obligation on the zamindars except that pattas and kabuliyats should be executed and those terms must not be exceeded. In this connection the letter of Mr. C. T. Buckland, I.C.S., referred to in my reply to question No. 1 may be referred to.

Except that certain classes of resident tenants were hereditary and and so permanent, there is no other affinity between those khudkasht tenants of old and the occupancy raiyats of the present days. These old resident tenants, who were called khudkasht tenants, had the right of inheritance and they could not be evicted so long they paid rent. "Though his title was hereditary, yet the raiyats cannot sell or mortgage his lands" (Shore's Minute of June 1789).

In the same Minute we also find—

"The raiyats by long occupancy acquire a right of possession in the soil, and are not subject to be removed; but this right does not authorise them to sell, or mortgage it, and it is so far distant from a right of property;"

also

"It is equally understood as a prescriptive law that the raiyats who hold by this tenure cannot relinquish any part of the lands in their

possession or change the species of cultivation without a forfeiture of the right of occupancy".

Thus the rights and disabilities of khudkasht raiyats, the best class of raiyats of the old days, may be briefly stated as below:—

(1) They must be residents of the village.

(2) They must be cultivators of the lands of the village where they reside.

(3) They had the right to inherit.

(4) They could not be evicted so long they paid rents.

(5) They had no right to sell or mortgage, and the zamindar had a right to veto a transfer.

(6) They could not change the species of cultivation as agreed upon between them and the zamindar; and forfeiture was the penalty of non-compliance.

(7) Being the better class of raiyats—residents of the village having the heritable right, their rents were the highest, and as such the margin of profit by subletting was very small.

(8) A purchaser of an estate at a revenue sale could avoid or annul the rights of these raiyats.

The other class of raiyats, the paikasht or non-resident raiyats of a village had absolutely no right at all and they were tenants-at-will. They were not settled raiyats.

On comparison of these rights with those of the occupancy raiyats (creation of Act X of 1859) and also of the newly created, "settled raiyats" (creation of Act VIII of 1885), it will be found that all the rights, that the khudkasht tenants were not in possession of, have been given to these occupancy and settled raiyats, amongst whom the paikasht raiyats of old have also been taken in; and the occupancy raiyats and settled raiyats have been invested with rights by crippling further and further the rights of the zamindars, and to their prejudice, and in defiance of their rights affirmed by Regulation I of 1793.

Q. 24. In view of the answers given to the foregoing questions, where I have tried to show that the zamindars, and not the raiyats, have always been the actual proprietors of the soil, I do not think that there is generally anything in this question which requires a further answer.

For the proposition that the raiyats paid rents direct to the State, I do not find anything in the several Minutes antecedent to the granting of the pledge of Permanent Settlement. That the rent was paid in lieu of the State's obligation to afford protection to their persons and

property and for carrying on the administration, I have no materials before me to support this view. If this was so, much tears would not have been shed by the advocates of raiyats and financiers who think that the State should have all the profit of the rents paid by the tillers of the soil, instead of the zamindars and other middlemen; and there would not have been so much cry for the economic interest of the province.

In my answer to question I have given, as much as I could, the connotation of the word proprietor. Mr. Shore also gave the connotation partly in his Minute of June 1789.

Q. 25. In the interest of agriculture I should think that the conferment of rights on the raiyats since 1859 has been a mistaken policy; and the more the rights are indiscriminately extended to different and other subordinate persons the more injury is done to agriculture and other crafts. A worldly person cannot be extra-altruistic in his principles; he can only be egoaltruist. A zamindar may be disposed to help a raiyat direct under him, but not any one holding under his tenant or other persons; and thus the stimulating and timely help to the actual tiller of the soil is restricted. Further the subinfeudation since the tenancy legislation, being of a contrary character than the subinfeudation of the old days, when there was very little margin of profit, the rent of the better class of raiyat being higher than the rent of the lower class, the grades of subinfeudation have greatly increased, with the result that the burden of taxation has been very heavy on the tillers of the soil. Unless steps are taken to check this subinfeudation, the grant of superior right to the tillers will not improve the situation.

This point was lost sight of in 1928 when they extended occupancy right to some of the under-raiyats. The policy was extended in the Act of 1938. Very few now remain of the under-raiyats who have no occupancy rights. It is not just that they should remain deprived, when others of their class will be enjoying the said rights.

Q. 26. If it is the intention, as it should be, of the Legislature to benefit the actual cultivator of the soil, let him be invested with the occupancy right and his landlord should then be classed as a tenure-holder. The definition of the word "raiyat" should then be changed. A raiyat who took settlement of a land with the object of cultivating the same should be an occupancy raiyat, so long as he cultivates the land himself; but if he materially abandons his intention and ceases to cultivate the major part (say 3/4th) of his land, he should cease to be an occupancy raiyat, and should be a tenure-holder, with the 1/4th part let out to under-tenants being treated as the khamar land of the tenure-holder. If the raiyat however retains ¾th of the land in his own cultivation and lets out the 1/3 to under-tenants he continues to be a raiyat

and the under-tenants of the 1/3 part should have no rights of an occupancy raiyat. This will check further subinfeudation to a great extent.

Q. 27. The Permanent Settlement Regulation was enacted for giving fixity of revenue and for extension of cultivation, and thereby for the improvement of agriculture. Sayer collections were abolished, and by Regulation XXVII of 1793, all duties of trade and commerce and all internal duties of export and import were taken away from the zamindars. Before the Permanent Settlement, ground rents had to be paid by those who were not engaged in tillage; and when abandoning the place of abode, they could not take away the huts even, without payment of compensation. The sayers constituting of tolls and imports and other internal duties were abolished and resumed by Government; before the Permanent Settlement, the zamindars were in the enjoyment thereof, and the husbandmen were allowed the enjoyment of the homestead and other places of trade. "The revenue of fruit trees is paid either in kind by a share of the produce, or in cash upon a numeration of the trees". "The revenue of piscaries is obtained by occasionally drawing the fishery on the landholder's account". These husbandmen had never any right in the land. "Ground rents were not usually levied from raiyats engaged in husbandry, but this immunity lasted no longer than while they maintained their tillage". The zamindars derived their income from the husbandry and crafts, by imposts. These sayers being abolished and resumed, it follows, that the Government took upon itself the duty of protection of these classes of people, and the trade and industry of the country.

Thus the zamindar's duty to give protection to non-agriculturists, there was none, after the Permanent Settlement; and for these reasons I am against granting any rights beyond such as are contracted for between such non-agriculturists and the zamindars.

Q. 28. There is absolutely no such reason. "Agriculture and the improvement thereof hath ever been the principal and primary object of all wise and beneficent Governments. Because on it depends the population of the country, the comfort and happiness of the inhabitants and also the wealth and power of the State. For unless it shall be encouraged and promoted, the other arts, including manufactures and commerce, cannot possibly flourish: they cannot even exist".

Protection of agriculture only was aimed at by Permanent Settlement in an indirect manner, but the Government by resuming the duties on trade, commerce, etc., took up the responsibility of their protection on their shoulders, as I have said in my reply to the previous question. Thus it follows that agricultural lands converted into non-agricultural purposes requires no protection. The Tenancy Act provides

for eviction and damage in cases of conversion of land to non-agricultural purposes.

The State already levies a duty on profits for such non-agricultural lands in the shape of income-tax. The zamindars also pay this tax; and so what other additional tax is suggested, is not comprehensible. If this additional tax is proposed to be generally levied from all, that will require an answer quite different from the present purposes.

Q. 29. I should rather think the number of bhagchasis is on the increase. The reasons are that the bargadars having no right are preferred for the cultivation, where the return is immediate in a shape of crops. Small families who have large areas to cultivate and have not the means for cultivating the same through hired labour, or middle class peole who do not take to plough and have other avocations, prefer this system, though the return is smaller. Widows and minors favour this system out of necessity. Exodus to towns after employments, and aversion to agriculture due to the present system of high education are other reasons for the increase.

Another reason is that, with the rights of the raiyats having become transferable, the holdings are more easily passing into the hands of village capitalists who are non-agriculturists, and who instead of letting them out to people on raiyati rights, thus limiting their own rights, cultivate the lands through this system of bhagchas. There is also the reason of the growth in the number of landless people, who, being unable to pay premium for taking settlement of lands, prefer to take lands in bhagchas, and the raiyat and other landlords being averse to take to plough get their sustenance by this means. To add to this, the more affluent of raiyats who have now transferable rights are averse to let out lands on cash rent basis, thus creating rights in limitation of their own, and so take recourse to this system in cultivating their khamar lands. Small landholders or zamindars also follow them for the same reason. Fall in the price of staple food crops, especially in these days of depression, is another reason, in that the tenants secure the food for the consumption of their families without going out to buy them in the market.

Another alarming reason is that rural credit having been absolutely strangled, and with the diminution of the rupee value, the cultivators are inclined more towards storing more crops for their food, and so they are averse to let out the lands on cash basis.

There is another indirect cause. The produce rent system is almost non-existent nowadays; and, with the passing away of that system, the bhagchas system has been on the increase.

Q. 30. The suggestion (*i*) does not appear to me to be correct. If occupancy rights are given to all the bhagchasis, it will, in my opinion stifle the system, and this will cause a great deal of inconvenience to those poor landless cultivators, who depend on this system for their food. Raiyats and other small landlords will not like to have the bargadars of their khamar lands getting rights in limitation of their own. Barga system admits of great abuses. In such a system either the barga tenant, or his landlord, whoever is weak and is not full of cunning, must suffer; and in the case of bigger landlords, the landlord may lose equally with the bargadar, though the landlord's agent may profit by the system. A strong bargadar will defy his landlord-sharer in many ways. There are various systems of barga and the abuses are different with different systems prevailing. For the prevention of these abuses produce rents were allowed to be commuted, with the results that there are almost no tenancies with produce rents in the present days.

Suggestion (*ii*), as has been stated in answer to question 29, has contributed to the increase to a small extent. When the land passes into the hands of a capitalist who is also a cultivator, it is then only that he at times gives away his lands in bhagchas. I do not think an out and out capitalist will come to let out his lands in bhagchas, as he will hardly take the trouble to go to the plot of land or village to collect his share of the crops.

Suggestion (*iii*) is a cause of increase, and it has been accentuated by the operation of the Agricultural Debtors Act. Creditors not being available, one in distress has to sell his lands to meet his financial difficulties, and the buyer, not being able to get any candidate for the settlement of the lands able to pay a premium for such settlement, lets out the land in bhagchas. In fact, loss of rural credit is the root cause mainly of the increase in bhagchas.

There is a certain system of bhagchas which has been prevalent in a certain locality since a long time; in fact many families are bhagchasis from generation to generation having their homesteads on the lands. The kut lands of Midnapur are examples of the same. Almost all the lands of a village are held in such a system. The reason is due to the fact, in my opinion, that the lands are high lands yielding one crop only, and that also not in abundance, and the land is subject in some cases to inundation. The lands are inspected by the landlord's agents when they are under crops, the agents estimate the yield, which is valued at the market rate, and share of that value in cash is the landlord's portion. This system is full of abuses, due to which the landlord, if he is not able himself to visit every field, is not benefited. These cultivators will not take the lands on cash-rent system, because the yield of the crop is very uncertain. This class of bargadars is not on the increase.

A raiyat who ordinarily cultivates his own land falls ill, or there is some accident in the family, which compells him to let out his land to a neighbour or co-villager in adhi temporarily. Such cases are on the increase, due to the loss of all rural credit, though the raiyats take the lands back in their own cultivation as soon as his difficulty is passed.

Small landholders, tenure-holders and raiyat landlords let out their nij-jote and khamar lands in barga system especially in these days of economic depression, being sure of the fact that such barga-cultivation will not confer any right on the bargadar. These are also on the increase.

Many lands are being khas purchased in execution of rent decrees, and the landlords—especially the small landlords—not being able to settle them on terms enabling them to recoup their loss to a certain extent, has now been taking to this system to secure a return from the lands.

Above all the increase in the number of landless cultivators is the main cause for the increase of barga cultivation. I should think, the system is rather a blessing for these poor men who has thereby the means of livelihood without taking to labour and without investing any very large capital.

Q. 31. The average area under barga system varies as the system varies. In reply to the foregoing question it has been shown that in certain parts of Midnapur, almost all the lands of the village are held in that system. In the eastern districts of Bengal the average also varies with the nature of the avocation of the inhabitants of a village. Where in a village the majority consists of middle class bhadraloks the percentage of the bhagchas is more than in a village composing of cultivators. The entire average I should assess at 10 to 15 per cent.; though in western Bengal the percentage of the average may be higher.

Raiyats and under-raiyats of a village having lands on a cash rent basis, also, hold lands in barga, and this is due to the area held by them on cash-rent basis being not sufficient for the family.

Q. 32. No. I am strongly of opinion that, ordinarily the rights now enjoyed by the raiyats should not be conferred on the bargadars. The raiyat had before no rights in trees, nor any transferable rights. I do not think that with the enlargement of his rights his material condition has in any way improved;—rather they have become more and more indebted; and so any improvement of rights of the barga-dars will not, in my opinion, contribute more to their well being. As it has been stated in the previous answers, the barga system confers benefit more to the landless cultivators than to others; and if the

bargadars are invested with pucca right it will mean a curtailment of the right of their landlords, who will then be loath to let out their lands in barga. Limitation of the bargadar's right to possession only, gives him the means of sustenance, but the investing of him with superior right, though will increase his assets, will be the cause of his parting with the source of his subsistence for a trifling or temporary reason. A marriage in the family, or the purchase of a rowing boat, or of a good trotter pony will lead him to draw on his assets, as they have done with the raiyat,—with the result that the land will pass out of his hands, to another, under whom he will probably hold the same land as his bargadar.

I would have the barga system protected by trying to remove its abuses; and in so removing it, attempts should be made to enable the landlord of the bargadar to recoup his out of pocket expenses as far as is possible. Rules must be framed, for the manner in which the shares should be divided or apportioned, and agencies should be determined to do the apportionment. The village panchayet's help may be made useful.

There are different systems of barga and rules should be so framed as the abuses of each system may be removed as far as possible.

Q. 33. I should think the system is sound where small lands are concerned, as

(1) it is of great help to the class—of landless cultivators;

(2) it involves less risk than in a cash-rent tenancy system;

(3) it ensures payment of the landlords' dues punctually;

(4) there is less chance of speculation. In a cash-rent system the tenant or cultivator speculates on a profit, whereas in a barga system the aim of the cultivator is more towards sustenance and supply of his needs, than to any profit.

(5) There is hardly any question of "interest" in a barga system; and

(6) there is more room for either of the parties, the landlord and the bargadar, to help each other, in the supply of seeds, plough and cattle, and both; there being different systems, where such supply is given by the landlord, or where it is given by the bargadars; and in such cases the share of the supplier in the yield is more than that of the other. This practice has got a special advantage. It provides another objective to improve the growth, whether it proceeds from the landlord or from the bargadar.

The benefits have been described above, but the spirit of dishonest temperament mars the beneficial results; and in the check of these abuses lies the growth of the system.

Q. 34. *Vide* answer to question 32. I do not advocate the conferring of raiyati rights to bargadars for the reasons given in my reply to question 32, one of them being what is stated in the latter part of this question. But when raiyats are being invested with larger and larger powers, there is no reason why the bargadars should also not be invested with occupancy rights; at least it will give solace to their minds, though the rights will not give them any relief in improving their material condition.

Q. 35. The proportion of produce payable in a bhagchas system differs mainly on the ground as to who supplies the seeds, ploughs and cattle,—the party, landlord or the bargadar, supplying the same getting proportionately a larger share than the others. The quantity differs also with the site where the division has to be made; if it is made at the house of the landlord,—and this is the practice usually when the seeds, etc., are supplied by the landlord,—the landlord's share is greater but when the division is done at the field or at the bargadar's house, the landlords share is smaller. The more general proportion is half and half, and I should think the division should be left to be decided by the parties according to local usage, which is being followed from ancient time.

Q. 36. The wages vary in every district and with regard to the crops grown. Labour to plough a field is less costly than labour to work and collect jute. Abundance or scarcity of crops also is a factor that determines the amount of wages, inasmuch as the law of demand and supply determines the fluctuation.

The average rate of wages has gone down a good deal in these depression days. It now ranges between annas four to annas nine.

The economic condition of bargadar is much better than that of an agricultural labourer; the former is generally assured of his sustenance, the latter being not so favourably placed. In times of scarcity, unless there has been a total destruction of crops, the bargadar has a share, which, though not sufficient, may carry him on for at least some time; whereas it is not very rare to find a labourer going without work, or to work at far less than a living wage.

As regards under-raiyats, the question is different. Their rent-liability being heavy, they are in distress even in times of plenty, and in times of scarcity they are the persons who are the hardest hit, as much as the agricultural labourers, or even worse than them.

Q. 37. The passing of many lands into the hands of non-agriculturists was the very evil that was apprehended when the unrestricted transfer was provided for in Act IV of 1928. As a matter of fact at the time when the Bill was being discussed by the Legislature, it was

one of the objections adduced by the members who were against such provision. Previous to the Act, landlords were generally opposed to any transfer in favour of a non-agriculturist, and it was not infrequent, —when in an execution proceeding land would be attached,—for the zamindar on the request of the judgment-debtor—tenant or other co-villagers of his, to refuse his assent to the sale; and thus the lands would be saved from the knock of the hammer.

The worst of motives have been imputed to the landlords, saying that the landlords would recognise any transfer who could pay them the salami. In the above cases it was not so. Also, it is widely known, that, in those days before the power of unrestricted transfer was given to the raiyats by the Act of 1928-1929, though a zamindar would not recognise a transferee unless his salami was paid, he would not disturb the transferee if his rents were paid; and in this way, hundreds of transferees used to hold the lands unmolested so long the rents were paid. The zamindar's rights were thus not disturbed, nor also the rights of the raiyats or their transferees. In cases of portion-transfer, the rulings of the High Court had secured their position, as there could be no eviction for them.

It was also then shown that the raiyat, even the best class of raiyat of the old days, had no rights of transfer, and as the zamindars had the right to choose his tenants, the right should not in equity be given to the raiyats, in limitation of the right of the zamindar, and to the prejudice of his rights secured by the pledge given by Regulation I of 1793. The legislature wanted to satisfy both parties and cut a midway. They gave the right of transfer to the raiyat but allowed to the zamindar a fixed percentage on the amount of the value paid, in lieu of his salami; and made this payment an obligatory one before the transfer deed could be registered, not to the landlord, but to the Sub-Registrar for transmission to the landlord. This, though invested the raiyat with an unrestricted right of transfer, deprived him of getting from the landlord a remission or reprieve from payment of salami, and made the breach in the relation of landlord and tenant more wide.

The Legislature recognised the principle of the landlord's power to choose his tenant, as it gave the right of pre-emption to the landlord; which saved the land at least from passing into the hands of non-agriculturists. This provision further estranged the advocates of the raiyats, though I am not yet sure that it estranged the raiyats themselves, as though it did not much matter to the raiyats, if the landlord would pre-empt the right of the transferee, the advocates nourishing the idea that it indirectly was a limitation of the unrestricted right of transfer.

The agitation having received an impetus by the grant of the power of transfer was continued more vehemently, and the fuller and more

unrestricted transfer was given by the Act of 1938; and though a saving clause forbidding or restricting the right of transfer to non-agriculturists was moved as an amendment, it received almost no support in the heat of the agitation; and in these days of depression and calamity we find the actual cultivators of the soil in a worse position than before.

I give the history of the changes for due consideration of the problem. The cultivators of the soil, who contribute to the wealth of the country, are mostly illiterate, and that is the reason of their exploitation. They need protection from outside agencies and from Government, as they cannot protect themselves for the failings of their own. They have no assets which can be indiscriminately drawn upon in times of need; and so it should have been the look-out for the more intelligent section to see that they are not being vested with rights which will induce them to deal lightly with their assets. From the ancient times restriction was put upon them in the transference of their rights, though no limits were put upon their heritability. Thus the giving of the power of transfer to them, though has caused harm to the landlords entailing some financial loss, it has caused more harm to the agriculturists as a whole, in that it helps the passing away of the lands to non-agriculturist, who has no other interest in them except providing a source of speculation.

For the above reasons I am in favour of restricting transfer of agricultural holdings to agriculturists only, and this will be practicable if the following provisions are made:—

(1) Agriculturists to be defined making actual cultivators, cultivating at least 75 per cent. of their lands themselves, raiyats.

(2) Power of unrestricted transfer to agriculturists only to be given to these raiyats.

(3) Transfers to non-agriculturists to make the transferee liable to pay a salami to the landlord, and also to engage themselves in actual cultivation of 75 per cent. of their lands, failure of which will make them liable to eviction by the landlord.

(4) Right of co-sharers and contiguous cultivator-holder of lands to pre-empt to be given.

These provisions, I think, will provide a sufficient check on transfer to non-agriculturists, which has gone on increasing very largely since the passing of the Act of 1938.

Q. 38. About 10 to 12 bighas for an average family consisting of five, provided the product of the holding is the same as now. If productivity of land is increased, and if the capacity and inclination to work are increased, lesser area may do.

Q. 39. The size of the present day raiyat holding is generally uneconomic, the more so for the fall in the productivity of the land, and in the quality of the produce.

It is no doubt very true that the laws of inheritance, the increased power of raiyats enabling them to transfer and subdivide their holdings, as also the increase of population, contribute towards fragmentation of holdings.

Q. 40. Consolidation of holdings into an economic holding is desirable, but how that can be made possible is very difficult to answer. So many legal complications aggravated by the inheritance laws, both Hindu and Muhammadan, there are, that it will be next to impossible to adjust the many claims on a moderately economic holding. So far as possible, consolidation may be legally done by empowering Courts to consolidate the lands of a tenant, held under one landlord and under the same right, on his application, and on such terms as may be thought equitable by the Court, providing for payment of compensation to those whose interests may be affected. Lands of a tenant solely held by a tenant may be consolidated with those which are held ejmali with others, but before such consolidation is made, partition of the ejmali lands should be effected. Consolidation may be allowed of those lands which are held by a tenant in his direct cultivation. If this is done some advancement will be made.

There is another aspect of the matter. Consolidation once made will, under the present laws of inheritance, be of short duration. So, if consolidation is allowed, it should be allowed only if the tenant having it submits to a settlement, something of the nature prescribed in the Bengal Settled Estates Act, Act III of 1904, providing for some allowance to the co-sharers out of profits derived from the land.

Q. 41. If consolidation is made possible, special facilities should of course be given to the cultivator to increase its size not only by exchange or purchase, but also by taking settlement of new lands; provided of course the extension is made subject to the same terms as prevailing in the originally consolidated holding. In this, however, I do not advocate any special legal facilities compelling others to agree to the exchange or sale, unless special provision is made for giving compensation to those whose lands are taken or acquired for consolidation.

Q. 42. Accumulation of large areas, I do not think, will contribute to the well-being of the peasantry. It will also be followed by the same results as are intended to do away with. Subinfeudation will come in with rack-renting of under-tenants,—actual cultivators of the soil; but a separate legislation may be tried to promote agricultural

farming on co-operative principles under the supervision of the Co-operative Department. Cultivators may join together and apply to Government for permission to start a co-operative farming; and in that case when a farm is allowed and worked as such, it may be made not liable to be attached for other debts, except its own, of the cultivator-members of the farm. A co-operative farm should not be allowed if the lands are charged with any lien and they should be made indivisible. These are mere suggestions, and nothing should be done unless the question is thoroughly examined.

Q. 43. Coparcenary is detrimental to improved cultivation. By the laws of inheritance fragmentation is the inevitable result, and with fragmentation good and bad lands being intermixed, and each divided co-sharer becoming poorer than before, good cultivation becomes a rare thing with them. Consolidation of lands into an economic holding and making it indivisible may be one of the remedies, but in that case it may be improved upon by measures suggested at the end of the answer to question 40.

Q. 44. *Vide* answers to questions 40 and 43.

Q. 45. No legislation is needed for the adjustment of the collection of co-sharer landlords. The Tenancy Act has provided that an undivided share of a holding is also a holding; and the procedure of a suit by a joint landlord has also been provided for. A co-sharer landlord can get his share partitioned, if he likes, either by the Collector or by Civil Court, and can arrange for his separate collection. No more legislation seems to be necessary.

Q. 46. There is nothing in Regulation I of 1793 whereby a zamindar was precluded from enhancing the rents, or rates of rent that were payable at the time of the Permanent Settlement. Rather in Regulation VIII of 1793 the right as to the rent of the raiyat was not circumscribed.

By section XVIII of Regulation VIII of 1793 the mokararidars even, whose mokarari grants did not receive the sanction of the Supreme Government were to be dispossessed, and the settlement of the land should be made with the actual proprietor of the soil.

By sections XLIV and L of the same Regulation, even istemrardars have not held land at a fixed rent for more than 12 years were liable to be charged with increase of rent provided the proprietor had not bound himself by a deed not "to lay any increase". And in the event of the zamindari being let in farm the Government was not precluded from assessing such istemrardars "according to the general rate of the district".

By section LVI—agreements were advised, and if there was any special custom it should be entered in the patta. Failing due observance of the patta as regards species cultivated "a new engagement shall be executed".

By section LX "No actual proprietor of the land . . . . . shall cancel the patta of the khudkasht raiyat except on proof that they had been obtained by collusion; or that the rents paid by them within the last three years have been reduced below the rate of the nirikhbundi of the pargana for the purpose of equalising and correcting the assessment".

Thus, except the direction that pattas should be executed and written agreements entered upon, and that the sancity of the lease be observed, nothing was said about limiting the power of enhancement. Even where there was a patta there could be re-adjustment of assessment on a general measurement.

In section V of Regulation XLIV of 1793 it was said that on a sale for arrears of revenue the engagements entered into by the defaulting proprietor with the raiyats and others shall stand cancelled and the purchasers at the revenue sale "shall be at liberty to collect . . . . . from the raiyats and cultivators . . . whatever the former proprietor would have been entitled to demand according to the established usages and rates of the pargana or district in which such lands may be situated, had the engagement so cancelled never existed".

In the Preamble to this Regulation it was said—"It is essential that proprietor of land should have a discretionary power to . . . . . grant leases or fix the rents of their lands to induce the . . . raiyats to extend and improve the cultivation . . . . ."

Here we find that enhancement could be made according to local usage or according to the district or pargana rate.

By section II of Regulation V of 1812—

"Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and the tenants and most conducive to the improvement of their estates."

Thus in new settlement the zamindars had absolute power, and it was expected that they "will exert themselves in the cultivation of their lands under the certainty that they will enjoy exclusively the fruits of their good management and industry . . . ."

As regards the nirikbundi of the pargana, it must have been that there was no such nirikbundi for every pargana, as in section LX of Regulation VIII of 1793 and in section V of Regulation XLIV of 1793 a district rate instead of a pargana rate should not have been mentioned.

There used to be a nirikbundi of a pargana, but it is doubtful whether those were the rates obtaining at the time of the Permanent Settlement.

Again to set the matter at rest in section III of Regulation V of 812 it said—

". . and the proprietors of land shall henceforward be considered competent to grant leases to . . . . . raiyats, and to receive corresponding engagement for the payment of rent . . . . . according to such form as the contracting parties may deem most convenient and most conducive to their respective interests."

In section V of Regulation V of 1812 though a pargana rate was mentioned, it was never and nowhere conveyed that this rate was to be an unalterable rate. This section V was repealed when Act X of 1859 was enacted.

The framers of the Permanent Settlement were much perturbed by the abwabs which they could not prevent by any prohibition; and they were much exercised that these taxes were varying always as the demands of Government varied. Thus in fixing the Government revenue they desired that the proprietors should enter into engagements with the raiyats to whom they must grant pattas for rents which they would not be able to vary as before, and abwabs, etc., might be consolidated with rents if they and raiyats agreed. For the reasons that are very well detailed in the analysis given in Mr. C. T. Buckland's letter referred to in the answer to question 1 above, cases of engagements and pattas were very rare. That it was the desire of Lord Cornwallis to limit or stop the impositions of abwabs, etc., and not to fix the rents forever, can be established from—

(1) Extract from Bengal Revenue Consultations, the 21st December 1789:—

Para. 13.—"The necessity of some interposition between the zamindars and their tenants is absolute; and Government interferes by establishing Regulations for the conduct of the zamindars, which they are to execute, and by delegating authority to the Collectors, to enforce their execution. If the assessment of the zamindaris were unalterably fixed, and the proprietors were left to make their own arrangements with the raiyats, without any restrictions, injunctions, or limitations, which indeed is a result of the fundamental principle, the present confusion would never be adjusted."

Para. 14.—"This interference, though so much modified, is in fact an invasion of proprietary right, and an assumption of the character of landlord, which belongs to the zamindar; for it is equally a contradiction in terms to say that the property in the soil is vested in the

zamindar, and that we have a right to regulate the terms by which he is to let his lands to the raiyats, as it is to connect that avowal, with discretionary and arbitrary claims. If the land is the zamindar's, it will only be partially his property, whilst we prescribe the quantum which he is to collect, or the mode by which the adjustment of it is to take place between the parties concerned."

(2) Extract from the Minute of Governor-General, 3rd February, 1790:—

"Neither is prohibiting the landholder to impose new abwabs or taxes on the lands in cultivation, tantamount to saying to him, that he shall not raise the rents of his estates. The rents of an estate are not to be raised by the imposition of new abwabs or taxes on every bigha of land in cultivation; on the contrary, they will in the end, be lowered by such impositions; for when the rate of assessment becomes so oppressive as not to leave the raiyat a sufficient share of the produce for the maintenance of his family, and the expenses of cultivation, he must at length desert the land. No zamindar claims a right to impose new taxes on the land in cultivation; although it is obvious that they have clandestinely levied them, when pressed to answer demands upon themselves; and that these taxes have, from various causes, been perpetuated to the ultimate detriment of the proprietor who imposed them.

"The rents of an estate can only be raised, by including the raiyats to cultivate the more valuable articles of produce, and to clear the extensive tracts of waste land, which are to be found in almost every zamindari in Bengal. It requires no local knowledge of the revenues of this country, to decide, whether fixing the assessment, or leaving it liable to future increase, as the discretion of government or its officers, will afford the greatest encouragement to the landholder to have recourse to these means, for the improvement of his estate.

I should think that ascertainment of the niriknama of the Permanent Settlement days having been very difficult to get at, the framers of the tenancy laws of the later days dropped that enigmatic expression and provided for reference to be made to the "rates obtaining for similar classes of lands in the vicinity".

As regards rent or rate of rent Colebrooke writes as below in pages 36 and 37 of his famous Essay:—

"The rates ought to be uniform as far as circumstances permit, and the rents of all tenants, within the same village or district, should be regulated by one table. As the quality of the soil, however, cannot be uniform, the rates vary, not only according to the articles of produce, and number of crops gathered off the same field within the year, but according to the soil and situation; such as sandy; exposed to

inundation or to drought; annually overflowed; adjoining to, or remote from, the village; and so forth. All these variations, whether by the produce or soil, constitute the rates which compose the table. Other diversities are admitted for the subdivisions of districts and of villages. But in some places, there is no variation according to soil and produce; on the contrary, one uniform rate is applied to the whole land which is occupied by the same tenant. A patta for an adjustment after cultivation by a general table need not specify the rates. It need only contain the term of the lease, the reservation of established taxes, the measure to be used for the land, an obligation to pay all additional cesses which shall be universally imposed, and the periods of payment. The term, specified in a lease of this nature, is commonly the year for which it is granted. A raiyat has nevertheless a title of occupancy, in right of which he may retain his land, so long as he continue to pay the rent in conformity with the custom of the country, or with his own particular engagement."

It must no doubt be said that by extension of cultivation the increase in the zamindar's income or profits was mainly obtained, rather than by the enhancement of rents; and as it has been proved by Mr. Robert Knight in his introduction to Colebrooke's Essay, the enhancements obtained have nowhere been near the adequate.

Q. 47. *Vide* answer to question 46 above.

"Fixity of rent forever" for the raiyats was never intended; but what was intended was that instead of the varying nature of rent, and instead of realisation of abwabs and sayer collection, the parties should enter into engagements, whereby either a rent should be fixed leaving to the latter "the option to cultivate whatever species of produce may appear to them likely to yield the largest profits", or where "it is the established custom to vary the patta for lands according to the articles produced thereon", and where the zamindars and raiyats "shall prefer an adherence to the custom, the engagements entered into between them are to specify the quantity of land, species of produce, rate of rent, and amount thereof with the term of the lease . . ." (*vide* section LVI of Regulation VIII of 1793). Here also no fixity of rent was intended and it was said, that in such engagements term should be provided.

Section LX of Regulation VIII of 1793 provides that such pattas as above of the khudkasht raiyats could not be cancelled except for special reasons which have been discussed in my answer to the foregoing question. To be "fixed forever", there must be some declaration in the Regulations to that effect, and when there are none, it cannot be presumed; and there are no grounds even for such presumption.

I have shown in my answer to question 1 that the khudkasht tenants would not even accept the position of fixity for a term as they thought they were better off without it.

The same question was discussed before the Rent Law Commission of 1880, but the Commission came to the conclusion that fixity could not be proved.

Q. 48. I have in reply to the foregoing questions shown that fixity of rent of even khudkasht raiyats, not to speak of all classes of raiyats does not find support in (*a*) Regulation I of 1793, nor in (*b*) any other Regulation that I know of, nor in (*c*) any Act. The rulings quoted below are against such fixity also:—

13 Moore's Indian Appeals, page 248.

12 Bengal Law Reports, page 215.

In the first part of section XLIX of Regulation VIII of 1793, referred to in my reply to the foregoing questions, it is said:—

"It is to be understood, however, that istemrardars (mokararidars) of the nature of those described in section XVIII, who have held their land at a fixed rent for more than 12 years are not liable to be assessed with any increase, ... should he engage for his own lands."

This special class of istemrardars or mokararidars were exempted from all increase, "should he engage for his own lands". With the exception of this class, all others were liable to pay an increase.

(*d*) I should think that the section 50 (1) was derived from the apathy of the zamindars in not asserting the right to increase in the rent since the Permanent Settlement or for 20 years.

The 20 years presumption comes under clause (2), and the presumption is that if no change is shown to have occurred in the rent during 20 years before the institution of the suit for enhancement, it shall be presumed "until the contrary is shown" that the tenant held the land at that rent or rate of rent since the Permanent Settlement.

As regards this presumption of fixity of rent the ruling cited in 42 C.W.N. 304 may be referred to. "The mere fact of payment of rent at a uniform rate, in the absence of other circumstances may not raise any presumption of fixity of rent or of permanency."

Also 85 I.C. 636:—

"The mere fact that a tenancy has been held by the predecessor-in-interest of the tenants for several generations, and that the rent has been uniform for over 50 years is not sufficient in law . . . . . to show that the rent was fixed forever or that the tenancy was a permanent one."

Section 6 of the Tenancy Act admits of proof to show that a permanent tenure is liable to enhancement. It is based on section 51 (1) of Regulation VIII of 1793 which section was repealed.

(*e*) The general ground admits of a presumption which cannot be supported by law, when there is no specific mention of such a provision of fixity of the rents of the raiyats in general; rather the Regulations as I have said in my answers to the previous questions are against such a presumption.

Q. 49. The hypothesis that the "rent" should never be increased is different from the suggestions of questions 46 and 47, where "rates of rent" are considered. Rents had never been intended to be fixed for ever at the time of the Permanent Settlement. I have shown above that there was no intention to fix the rents forever.

Rights have been adjusted since the Permanent Settlement by successive enhancements and by the decision of Courts. Now no principle of jurisprudence will sanction any law declaring a rent to be fixed, if it is, under the existing law or under a decree of Court, unfixed. If reduction of rent is intended, there is the section 112 of the Bengal Tenancy Act which can deal with the situation in cases of general hardship.

With the lapse of over 150 years it will be idle to contemplate even on going to the Permanent Settlement figures. Sufficient material will not be available, and it will be a very difficult thing to establish that such and such a tenant is a successor-in-interest of a tenant of the Permanent Settlement days. The difficulty is accentuated by the fact that there are few families of zamindars existing who can trace their descent from the time of Permanent Settlement; and in the cases even of those families existing since that time, it will be difficult to produce papers of that period which can establish a connection of a Permanent Settlement tenant with that of a present tenant. Tenancies have disintegrated and changed hands, with the change in the proprietors. Small landlords and capitalists have come in the places of old zamindars, and it has just been the case with tenants also.

Then the eastern districts of Bengal, which were jungle and marshy lands at the time of the Permanent Settlement, were reclaimed after the settlement, and so there could not be a tenant there at that time. During the cadastral survey and settlement of Mymensingh, there were many status cases, in the Tagore Raj Estate, and not one tenancy even could be established as continuing from the Permanent Settlement. I have never come across any engagement or patta of the Permanent Settlement times.

As regards the last question no grievances are known, and when they come to be known, we shall know what answers to give.

Q. 50. The hypothesis is wrong. It was never the intention of the framers of the Permanent Settlement that the rights of all tenants, including paikasht tenants, and new settlement-holders, should never be altered. If it is contended that it was the intention then the raiyats again cannot claim reduction of rent nor also the rights and privileges since heaped upon them.

There had been two Commissions—one about the year 1830-32 and one in the year 1880; and both the Commissions took no notice of such a suggestion; nor ever such a suggestion could be advanced in reason.

Q. 51. I have said above that there was no restriction on the zamindar in the matter of settling new lands.

(*Vide* also replies to questions 46 to 48).

Q. 52. I should think that, with regard to the rents to be paid by the actual cultivators of the soil, a standard rate should be determined on the value of the produce of a land less the cost of cultivation leaving a margin of profit to the cultivator. In this way system 2 appears to me to be the best system; but the standard rate should undergo revision from time to time, as the price of the produce varies.

Rents fixed on competition is not an ideal system though it may appear to be the best on paper. Competition-bids, especially amongst a class of people not far advanced in mind and knowledge, will often raise the rate of rent to such a figure as the land may be unable to bear. For these reasons this auction on rate of rent is not allowed in many estates; but where there is keen rivalry amongst candidates, auction on the amount of nazar or salami, with the rate of rent being reserved, is held for the settlement of the land. Again in reserving the rate of rent I would advocate the principle of leaving a large percentage of profit to the cultivators at the first settlement. This principle is good in the settlement of a large area of char and waste lands. In settlements of jungle and waste lands with the aboriginals, a nominal selami and a very low rate of rent, Re. 1-8 an acre even, are demanded.

Thus, in determining the rate of rent there cannot be a fixed uniform standard for all times for all classes of lands. A standard fixed to-day is inapplicable to-morrow due to improvement or deterioration of land. I have experience of lands having been deteriorated by upheaval due to earthquake, and also by deposit of sands, and in these cases we had to reduce the rate of rent considerably in settlement of lands made khas. I have had also experience where a land was abandoned or surrendered by a tenant, and in settling the same, a great reduction had to be allowed at the time of settling these lands with others. The value of crops rises and falls every now and then and so there should be no fixed rate of rent for all times to come.

The above remarks apply to settlements of khas lands with the actual tillers of the soil. Subinfeudation has been a feature of the land system of Bengal, and the rents payable by each grade of tenant should be considered with the rent payable by the tillers of the soil. The average rent now payable to the zamindars is very low, Rs. 3 per acre, and it is much less in certain estates. This rate is much less than what is paid by a tiller of the soil to the intermediate tenant, who must have a profit, in the existing state of things.

Q. 53. It has been said in answer to question 46 above that the pargana rates where they were fixed at the time of the Permanent Settlement were not meant to be unalterable in future. Where, however, there was a pargana rate it was based on the value of the produce of the land especially with reference to the particular crops grown. Thus said Lord Cornwallis in his Minute of February, 1790:—

"The value of the produce of the land . . . . is a standard which can always be reverted to by both parties, for fixing equitable rates."

Thus the mulberry land or tobacco land was rated more than rice land. I have seen many cases, however, the tenants were allowed "hazat", temporary reduction of rent, and the "talabi jama" (jama that was payable) was much less than the kāt jama, *i.e.*, (the jama at the standard rate). The zamindar's alleged apathy and timidity to enhance the rents never brought up the rate of rent to the standard rate, and enhancements were generally secured without following a fixed standard. "Prevailing rate" was introduced in Act X of 1859, but not having been defined, several interpretations were given, and so in the Act VIII of 1885 the word came to be defined in section 31B of that Act.

Thus the old practice of assessment on the value of the produce was lost sight of. That was also due to the fact that new and more profitable crops began to be grown, and enhancement was thus limited to the class of land and productivity. This is also becoming rare, and when there is an increase or decrease in area, proportionate increase or abatement is allowed generally by the Settlement Courts in section 105 cases. In the new settlements the zamindars still assess the land sometimes on its class and productivity and class. They are never lump rents.

There are few old tenancies now existing, which have the assessments of rent made on the principle of the value of the produce of land with reference to any crop grown. Generally the tenancies of the present days are found to have been assessed on rates assessed on the quality or class of lands; and in the later day tenancies the assessment is made at the highest of the rates now prevailing in a mauza. The custom now is the prevailing rate and not a rate fixed on productivity

with reference to the crop grown. Now a mulberry or a tobacco land or a sugarcane, or a jute land will be found to be paying the same rate as that of a rice land.

I cannot say that it is the practice that rates "differ greatly for lands of similar value in almost every village and estate", as that has not been my experience. But there is difference, and sometimes, the reasons are many. An influential raiyat or a raiyat with a large area has been evading enhancements, whereas a small raiyat has been paying the enhancements oftener than his neighbour; and it is not also infrequent that the zamindar has been lenient to a particular tenant either by choice or by force of circumstances, so that his rent is lower than that of a less favoured tenant; and as this has been going on for a long time variations in rates must needs be found. Again, in a particular estate in a village, the supervision being stricter than in the other estate, the rates of one estate may be more than the rates for the other estate.

Rates of rent are thus generally not dependent now, on value of the produce of land or on the class of land, but on prevailing rates, and this has been due to practice as well as legal enactments.

I have no experience of the rates of Government estates.

Q. 54. *Vide* answer to question 53.

Q. 55. If only the humanitarian point of view is looked upon and not the exigencies of the State, readjustment of rents must be made, but there can be no uniform basis for all parts of a district even, not to speak of all parts of the province. Conditions of locality differ for many reasons, and thus there can be no uniform rate for all times. In the old days the part of the country which was populous and wealthy, is now barren and devoid of population, though I do not think the productivity of land has weakened except through its lying fallow for a long time. Circumstances and situation of a land affects its value, and naturally it will affect the rate of rent. For reclamation of jungles and waste lands specially low rates will be necessary. Thus the rates cannot be uniform everywhere.

I don't think existing rents can be revised unless all what has happened in law since the British connection was established in the land is obliterated and revolutionised, and if that is possible to be done, it may be done by only a *fiat* issued from the Government.

Q. 56. On a humanitarian point of view it should be as low as possible, if, of course, landlords and all middlemen are done away with—; but if they are to remain, they must have a living even after payment of the existing amounts of revenue, and as in some estates the

incidence of such revenue is very heavy, one-fourth of the value of produce as in the days of Emperor Akbar, or at least one-sixth, as in the days of Mánu, should be prescribed as payable.

Q. 57. Rent must not be fixed in perpetuity—but it should be revised every 10 years, accordingly as there is a change in the prices of crops ordinarily grown in the locality. In the Bengal Tenancy Act there is the provision of comparison of average value of two decennial periods.

Q. 58. I do not see how it will at all be practicable to determine the income of an agriculturist; and the average income, after meeting all expenditure, not being very high, cases of exemption will be more than the taxable cases. Moreover it does not come to be an expedient proposal, in view of the huge costs that will follow such a measure, if introduced.

Q. 59. The only defect in the Bengal Tenancy Act that struck me is that where there is no definite engagement providing for payment of a "money rent", there can be no enhancement under section 30 (*b*) of the Tenancy Act, unless there has been a rise in the price of "staple food crops". Consideration of the rise in the price of such crops as tobacco, cotton, jute, etc., has been banned. I should think that the rise in the prices of all crops grown in a locality should be the criterion. I should so suggest that the rises in the prices of all crops grown in the locality or on the land in question, instead of the prices of "staple food crops" only, should be made a ground of enhancement. In section 48D of the Act the value of all produce of the land is to be considered in enhancing the rent of an under-raiyat.

Q. 60. For an improvement in the productive powers due to "fluvial action", the landlord does as much as the tenant in getting it about. So it does not appear to be reasonable, that one will reap the benefit and the other not.

The "State" limited its right to the benefits arising from the land by fixing the revenue at a high figure, and it was expressly declared that the benefits arising from the lands will be the portion of the zamindars.

Q. 61. No, as there appears no reason for such a principle. Enhancements for rise and abatement for fall are natural corollaries and for giving the stimulus to improvement of agriculture. Low rentals can provide no incentive to improve agriculture.

Q. 62. I don't know if the underlying principle in the question is the suggestion that when the income from the land of a tenant is not sufficient to supply the required consumption of his family he should be exempted from payment of rent. If that is not so, the question does not follow.

Q. 63. The premise does not appear to me to be correct. Consideration of prevailing rates involves the consideration of low as well as of high rates, and the majority rate of a village is the prevailing rate. If provision is made for reduction of rents on the ground of prevailing rate, then, firstly, it will tend to reduce the rate of rent obtaining in the village, and secondly, sanctity of contracts in new settlements would be gone.

There being no provision for enhancements on the ground of improvements made at the expense of the raiyat, the raiyat enjoys the results of his improvements without any addition to his charge, and so there cannot be any reason why any improvement should lower the rate of rent or in the end make it rent-free.

Salami must not be taken into the consideration at all. The payment of salami is a condition precedent of the contract whereby the landlords part with the possession of land and let the raiyat enjoy it on payment of rent.

Q. 64. There appears to be hardly any reason why the sanctity of contract should be disturbed or interfered with. If such attempts are started, there is no knowing where they will end. The suggestion to strike at the root of a contractual obligation— an obligation not secured by coercion, undue influence or duress—does not appear to be supported by any consideration. Inviolability of a contract duly entered into is not to be disturbed in the principle of jurisprudence, and in view of the several safeguards for the protection of the raiyats, provided in the tenancy laws, such a proposal is not called for.

Thus a rent secured legally by a new settlement should not be interfered with, when there is an engagement, whether reduced into writing and duly registered, or not, unless under section 38 of the Bengal Tenancy Act.

There are many provisions with which the question of enhancement of rents of raiyats is guarded, and there is also a special provision under section 112 of the Bengal Tenancy Act to be called into operation when there is a case of general hardship; and the average rate of rent paid to the zamindar being very low, the provision of another section giving powers to the Government for limiting rents secured by new settlement is not called for. No case has been made out for such a measure.

Q. 65. Generally speaking no defects appear on the face of it in the Chapter X of the Bengal Tenancy Act unless it is in the working. The chapter was intended to safeguard the rights of the raiyats, but the procedure followed by the officers is generally so much more in the interest of the tenants than what were contemplated by the legislature, that in some cases the zamindars are drawn to the Civil Courts for protection. In the status cases instituted by the Tagore Raj at

Mymensingh, the zamindar had to fight every inch of the ground, and had to incur a great deal of expenses, and the judgments of the Assistant Settlement Officer were reversed finally by the Civil Courts in every case; and because of the pending status cases, the section 105 cases were postponed sine die and were not taken up for hearing till about three to four years after their institution. If the provisions of Chapter X are properly worked, of course they are for the benefit of both tenants and the landlords, and there is nothing to object to. This is with reference to the permanently settled estates.

I have only one suggestion to make, and that is, that the section 105 cases may be allowed to be filed, as before, in groups, the mauza being taken as the unit, and also heard as such. The procedure now followed is that for each khatian there must be a separate case, and vakalatnamas, and necessary petitions must be filed in each such case, with the result that the cost of the section 105 cases has been made heavier than before.

As regards temporarily settled estates, the settlement of rent roll is done generally with an eye to increase the rent roll, and then to increase the amount of revenue to be paid by the settlement holder. Greatest injustice is done to the tenureholders, and the zamindars whose rent, and revenue are fixed at 70 per cent. of the valuation of the tenure or the estate, which valuation is calculated on the hastabood of the tenure or the estate, plus the value of the khas lands at rates dictated from above. This works very hard on both the tenureholders and zamindars, and it is not infrequent that the total collection of the tenureholder or the zamindar falls far short of the rent or revenue to be paid by them. Also, though there is the provision in the Settlement Manual to allow a Permanent Settlement, giving an allowance of 40 per cent. to 50 per cent. for collection and profit, this provision is rarely acted upon. In my experience I have never come across a single case, where the revenue has not been increased even during the time of economic depression and fall in prices of food crops, when the zamindars will not dare ask for enhancement of the rents of his raiyats, and the Courts even will not grant the same.

Q. 66. I do not know of any cases of enhancements granted being unfair to the raiyats, but rather they have sometimes been inadequate for landlords.

Q. 67. *Vide* answer to question 65.

Q. 68. There are several temporarily settled estates in the district of Mymensingh which previous to the last Revisional Settlement in 1936 were under settlement with Maharaja Tagore. At the Revisional Settlement the revenue of each of the following States was increased, and though it was pointed out that since the economic depression started, the average collection during the five years immediately before

the Revisional Settlement was below even the amount of the previous revenue, the estate of the Maharaja Bahadur, in view of the heavy outstanding arrears, and in expectation of the depression passing away, would continue to hold the tauzis at the same amount of revenue as before, the petition was rejected, and as none would take settlement at the increased amount of revenue, they had to be kept in khas collection.

No. of tauzi.	Previous revenue.	Increased revenue appearing in the notice.	Revenue offered by the estate.
8560	165	175	165
8561	127	142	127
8562	26	30	26
8564	426	500	426
8569	36	37	36
8570	392	404	393
8574	347	408	347
13789	1310	2276	1310

In the following tauzis the estate offered adequate revenue in view of the demand recorded in settlement papers, but no consideration was made of the representation by the estate, and though it was shown that the average of collection of the preceeding five years was much below the amount of the previous revenue, the petition was rejected.

No. of tauzi.	Previous revenue.	Increased revenue appearing in the notice.	Revenue offered by the estate.
8566	80	81	75
8571	109	90	70
8576	173	156	131
8567	731	770	696

In the following tauzis, though the average collection was less than the amount of the previous revenue, still the estate offered increased revenue according to the demand recorded in the settlement papers, but as more increased revenue was demanded the estate had to refuse the settlement.

No. of tauzi.	Previous revenue.	Increased revenue appearing in the notice.	Revenue offered by the estate.
8556	299	361	326
8558	538	679	671
8572	258	477	405
8575	214	240	227
8589	211	275	225

These assessments appeared to be unfair, and so the estate had to refuse the settlement. These tauzis are now held direct, and it is not known how collection has been progressing.

Q. 69. *Vide* answers to questions 65 and 68. It was not a good policy to go on with the Revisional Settlement when the prices had not yet reached the normal level.

Q. 70. I have no experience of working in the khas mahals.

Q. 71. In my long experience in the management of a permanently settled estate, I have never heard of the declaration of famine, and the resultant remission of revenue granted to the proprietor of the estate. There should be no difficulty to allow the same rate of remission to his tenants as the zamindar would get from the Government. In 1934-35, when in the district of Bogra, the Government allowed a remission of 25 per cent. of the cess demand, the Tagore Estate also allowed the same remission to its tenants, and no complaint was raised from a single tenant that such remission had not been granted to him.

I have no experience of any khas mahal estate working.

Q. 72. The yield or cost vary with the quality of land. The average yield and cost of chair and high lands in jute growing districts are given below:—

	Char. Yield per acre.	High lands. Yield per acre.
	Mds.	Mds.
Jute	14	15
Paddy	12 to 15	..
Sugarcane	..	90

The yield of paddy in barind tracts and other one-yield lands of Murshidabad is in average about 25 to 30 maunds per acre.

The cost of cultivation of jute by hired labour is about Rs. 50 per acre. For the cultivator who grows the crop himself, the cost is nominal, if labour is not taken into consideration. Generally they store their seed, and have got to purchase it rarely.

Sugarcane crop cultivation is a new venture in the estate lands in Mymensingh and eastern part of Rangpur, and the cultivation is done not at all extensively. The yield of the crop in the estate lands is about 90 maunds per acre, and the cost of cultivation, at the first year is about Rs. 144 per acre and Rs. 126 in subsequent years.

Q. 73. The productivity of land has decreased as it will be evidenced by the low outtturn of jute, as well as in the fall of its class. The

reason of this lies in the fact that the use of manure is very small. Cow-dung manure is used, but that not adequately. Rest is hardly given to a plot of land after cultivation of two or three years. In localities which are served by rivers there are no measures to prevent inundation, and in localities which are not served by rivers, there are no adequate measures for irrigation. Generally the seed used is the seed collected from last year's product, and the product being impoverished, the yield naturally falls. The Government sells seeds, but cultivators would not buy them extensively due to apathy, conservatism and also partly due to the distance of the places from where the Government seeds are available. Beyond the agricultural officers advocating the purchase of improved seeds, and other improved methods of agriculture—and that is also done not in the interior—no free supply of seeds, manures, etc., are given by Government, though in times of scarcity free supply of seed is given but not very extensively. Generally speaking the conservatism, coupled with difficulties of communication are the chief causes which have contributed to the decrease in productivity of the soil.

Q. 74. In the several Acts the legislature seems to have been very anxious to recoup the loans advanced, or costs incurred. The rigours of realisation deter the cultivators from taking advantage; and there is so much delay in getting orders that both the landlords and the tenants are not enthusiastic over the measures provided. Besides, there being no publicity given for the measures, ignorance is another reason why advantage has not been taken of these Acts. Subdivisional Officers should be instructed to give the initiative to the people.

Q. 75. I have no knowledge.

Q. 76. I have no knowledge.

Q. 77. The general policy of Government, and not the land system, has throughout been apathetic, and so has contributed to the uneconomic condition of the cultivators of the soil. It gave no impetus to agriculture. That the subinfeudation was taking a different turn from what it was at the time of the Permanent Settlement, and that the lowest grade of tenants—the cultivators of the soil—were being more heavily taxed, was taken no notice of. Since the Act X of 1859 the changes in the tenancy law creating occupancy raiyats, and investing them with more and more powers, at the same time limiting the facilities of the zamindars for rent realisation, and of others in the realisation of their dues, made the raiyats grow negligent about cultivation and the improvement of the crops grown. They grew callous about their debts. Their low rents and the heavy rents of the under-raiyats gave an impetus to subinfeudation. Then the power of unrestricted transfer and of subdivision, the passing of the Agricultural Debtors Act made them grow bolder, and more negligent about payment of their rents and other financial obligations. The working

of the Agricultural Debtors Act, and the delay in the disposal of the cases before the Debt Boards further aggravated the situation—; and the constitution of the Boards, by which the more intelligent section of the people were neglected and the debtors themselves were made the arbiters of the fate of the creditors, completed the rout. The result of all these has been that the zamindars have been reduced, village moneylenders, who used to keep the tenants alive during the months of cultivation, left their avocations, and rural credit was thus strangled. The indebtedness of the cultivators thus increased partly through their negligence to pay when they could pay. Loan offices which came after the village moneylending system was killed, and which engulfed the savings of the rural people, have lost their existence, and through this the cultivators became poorer. The Government has been indifferent to all these changes. It has always been led by agitation, and has yielded to the vociferous demands of the raiyat-landlords in the name of the tillers of the soil. As said in the answer to a previous question, though the Tenancy Act of 1938 was professedly intended for the betterment of the interests of the actual tillers of the soil, the raiyat-landlords and other intermediate tenants got most of the benefits.

Besides all the above, the Government has afforded no marketing facilities, fixed no minimum price for their main crop of jute, and, in spite of the great fall in the prices thereof, has not taken any care to lower the amount of its quantum of the export duty.

Want of proper education has been another contributing cause. If things are wanted to be improved, the following appears to be necessary:—

(1) Rural credit has got to be revived partially by reintroducing the village moneylending system with necessary safeguards, and by other measures.

(2) Acts should be so amended as will make the tenants respect their financial obligations.

(3) Supply of improved seeds and manure more extensively than before.

(4) Fixing a minimum price of jute, and affording marketing facilities.

(5) Provision of pasture lands by compelling the Union Boards to acquire the said lands and maintaining them, the tenants getting free pasturage rights therein. It should be stated here that, however willing the landlords may be to keep khas lands for pasturage, they cannot long be kept as such, due to clandestine encroachment, and for keen rivalry amongst the tenants to get settlement thereof.

These appear to me the very important items required, and there are many other necessities to be provided for, to improve the condition of agriculture.

Q. 78. It is impossible to state with any approach to accuracy the average income of a cultivating raiyat. The report of the Banking Enquiry Committee which went into this question may be referred to.

In western Mymensingh, where the main crop is jute, the average income of a family depending on about one and a half acre of land is about Rs. 200 per annum, with an expenditure of about Rs. 180 per annum. This is for actual tillers of the soil. Income from other sources is not included in the income figure, nor is the expenditure due to sickness and other extraneous causes also included.

Q. 79. The present system is adequate. Maintenance, even where it is done by Government agencies, being not taken by Civil Courts as conclusive evidence, the raiyat and other tenants should be compelled by law to notify the landlords, of inheritance and transfers, and persons failing to notify should be effectively barred as having acquired any right to be sued. The zamindars may then be compelled to mutations in his books, and patwari may be re-introduced to see that the records are properly maintained—, and to keep notes of all details of agriculture in a village, kanungoes may supervise the work of the patwaris.

I have no knowledge of the details of the system prevailing in the United Provinces.

Q. 80. *Vide* the answer to the latter part of the question 77.

Before any of the suggested means is adopted, rural credit must be restored giving a cultivator the power to withstanding the temptation to part with the crop at an unprofitable price. He is in the hands now of the speculator to whose price he has to submit, as he has never any reserve to fall back upon.

The suggestion (*i*) is a measure that is needed; but consolidation of holdings, or farming on co-operative afford this means a speedy result.

Suggestion (*ii*) is very good but it does not occur to me how it will be possible to be done in places far away in the interior where communication is exceedingly difficult.

Marketing facilities, I have remarked upon in my answer to question 77; and about cattle insurance I have doubts about its contribution much towards increasing the resources of the cultivators. Insurance is a thing not much understood by them, and the raiyats must first be educated about it before it becomes a success.

Q. 81. I have no knowledge of statistics, but it can be said that the pressure of population is a cause of the poverty of the cultivators.

Q. 82. Establishment of the industrial factories may relieve some pressure, but it being an agricultural country, improvement of agriculture should be the chief objective.

Q. 83. (1) Tenancy legislation should be made more stable, and realisation of debts should be more effective.

(2) Debt settlements should be made far more through amicable settlements, and disinterested parties should be asked to act as the mediator. At any rate the present Agricultural Debtors Act is not a very expedient measure. The principle should be that the creditors must not be coerced, but, rather their co-operation should be sought for, in coming to a settlement. Village moneylending should be encouraged, and, where feasible, agricultural banks—State-aided—should be opened.

I do not know of any organisation existing in the villages, which have for its object the improvement of agricultural credit.

In this connection I beg to observe that taxation should be lighter and more directed towards establishment of rural credit. Primary education should be paid for by Government and not by the cultivators themselves.

Q. 84. The crusade against the village moneylending system started sometime ago. Its good points were overlooked, and instead of curing its abuses, the system was rooted out. The village mahajans were in the habit of keeping the raiyats going and assisting them in times of need. During three or four months of the year usually when there are no crops, but still cultivation has got to be done, and, especially in times of scarcity, it was they who advanced money and grains, which did not so much reduce the cultivators to landless cultivators and labourers. Though indeed their rates of interest were higher, still, being co-villagers, there were cases, where large remissions of interest were not scarce with them. As a result of the crusade, direct and indirect, the system came to be stifled and then killed. It was then loan offices grew up like mushrooms, almost one in a small group of villages. Their rates of interest were higher than that of the village mahajans, though the dividend paid to their constituents was also very high. With scarcity coming, this system could not live and the loan offices ceased to exist with the deposits of the constituents. The countryside thus became poorer by this system. Then Debtors' Act came which absolutely killed all rural credit. The rural indebtedness became more acute, and now there are no men, nor any organisations in the village to help the raiyats in their distress and money scarcity. Now one can hardly find a straight-forward

cultivator in the village ready to acknowledge his liability and anxious to discharge his debts. The inclination to be square with his financier is gone and evasions have now been the general instinct.

There being hardly any village mahajans now to deal with, the question, I submit, does not arise.

Q. 85. I do not think the co-operative credit societies has tackled to any appreciable extent the credit problem of the agriculturists. I am not aware of the details of the working of the co-operative banks, but their relations with the agriculturists have only been the giving of loans, which the agriculturists are not caring to repay, and their lands are being bought by the banks in liquidation of the loan. Thus the banks have been tenants of large areas, and, not being agriculturists, they have become landlords, with the same predicament of other landlords of the country. Though the interest charged by the banks has never been high, still, in my opinion, they failed in their object in not being able to instil into the minds of the cultivators the habit of payment of their debts and other financial obligations. The distant situation of the co-operative banks has been the reason why they gave place to private loan officers referred to in answer to question 84 above; and so while the loan offices situated nearby in the village grew, the co-operative banks fell off in popularity.

Q. 86. In the answers to questions 83 and 84 and other questions I have commented upon the Agricultural Debtors Act and the Debt Settlement Boards. The Act is not a well-drafted Act, and it cannot adequately serve the purpose of benefiting the agriculturists unless their credit is fully revived, and their financial credit is established. With the measure providing for gradual reduction of debt, there should be measures taken, for improvement in cultivation and for affording facilities in the proper marketing of their produce. If both these measures go hand in hand then some good results may be expected.

As regards the working of the Act, the following strikes me mostly—

(1) The constitution of the Boards and the election of its President. At present the President and the members come from the tenant class, and as now-a-days they are almost all indebted and are in arrears, cannot for want of proper education maintain a neutral attitude. I should think no one who is in arrears himself be made a member—far less a President. The post of President should be given to influential persons and should carry a decent salary.

(2) The Special Officer and other supervising officers should be neutral, and should be directed to see that apparent relief of an agriculturist is not made the only criterion. They must be instructed

to direct their efforts mainly to instil in the minds of the debtors the inclination to pay off their debts even at a sacrifice. It is not uncommon that now they are advised first to look to satisfaction of their wants and then to pay, if they can, and with the aim in view to afford apparent relief the awards are made.

(3) It should be made a rule that, with the application, the instalment of current rent that has fallen due and one-tenth of the actual amount of arrears of rent, should be deposited. The practice now prevailing is, that the debtor now files the application and stops payment of his debts, with the result that when the award is passed, the arrears have increased and the indebtedness is sometimes past any relief. It has not been infrequent that the land is transferred after the filing of the application, or the tenant leaves the place, and the zemindar is deprived of all relief for the realisation of his dues.

(This principle is followed in Bihar.)

(4) The instalments provided in the awards must not be less than a quarter or fifth of the dues.

(5) The payment of the court fee for the final award must be made payable with the application. It has been my experience to witness cases being delayed for over six months due to non-payment of the fee prescribed for passing the final award.

(6) It is the provision of the law that failing the payment of an instalment of current rent subsequent to the period covered by the application or the award, the creditor or the zamindar may institute a suit for the recovery of the entire debt. The Act is silent about the court fees to be paid for such a suit. Suppose there is a decree for the dues of three years, the execution of which decree has been suspended by an application being filed under the Agricultural Debtors Act. The Board takes a year to pass an award, and so, by the time the award is passed, four years' arrears have accumulated. In the fifth year neither the dues of the fourth year (not covered by the award), nor any instalment of the dues of the fifth year is paid; and so the zamindar has to go to Court. In such cases the lawyers advise the payment of court fees for the three years' dues which are covered by the decree that had been stayed. This double payment of court fees is not just. It should be provided for in the Act that fees once paid need not be paid again.

(7) "Agriculturist" should be defined to include actual cultivators of the soil, with a change being made in the Bengal Tenancy Act, in the definition of the word "raiyat". Raiyat should be the cultivator, who cultivates himself, or by hired labour, not less three-fourth of the lands of his tenancy. There appears to be no need to afford relief to those who are not actual cultivators.

(8) It should be made the rule that there should be one Board to serve at least two chowkidari unions in the minimum, and no application should be entertained in a Board unless the tenancy of the tenant is situated within its jurisdiction. In special cases the Special Officer may transfer cases from one Board to another either of his own motion, or on an application being filed before him.

(9) Interest on rent is totally cut down at present, and costs of suit are also cut down at times. Costs must not be cut down in any event, unless agreed to by the landlord; and, about interest, the Boards should be asked to see that the relief granted by the entire remission of interest is not abused. So I propose that some interest should be included in the award to serve the purpose of penalty which would check the tendency of non-payment.

(10) The zamindars should be encouraged in filing applications before the Board. It is provided in the Act that if the tenant does not appear, the application of the zamindar should be rejected. I do not see why this should be so, and the zamindar should be deprived totally from the facilities for this means of realisation of his dues.

(11) Zamindar or his agents, where possible, should be made Presidents of the Boards. There does not appear to be any reason why the zamindars should be so banned or convicted, when the tenants are indulged to such an extent. Rather for the cultivation of amicable relations between the zamindar and his tenant, the Presidents of the Boards should before giving an award try their level best to make the parties come to a compromise; and if compromise is made conditional on a payment they should so state in the award.

(12) Landlord's cost of the case should always be awarded.

In clause (1) above, I have suggested payment of a salary to the Presidents. This should be done and the costs should be met by the Government. Government should make some sacrifice with others, in improving the lot of the cultivators, who supply food to the country; and there is no reason why the costs shuld be totally the burden of others, while it has got a duty to perform with respect to the cultivators.

In reference to this question, it should be considered why there should be any settlement at all, or instalments given for arrears of cesses. The zamindars are charged with the duty of collection thereof without any collection charge, the cesses are realised in full from the zamindars who are left to their own devices to collect the same from the tenants, so much as they are payable. If this is to be the situation, has the Government any just reason, either to deter, or to defer the collection of cesses from those who are liable to pay the same? In thrusting the instalments on the zamindars, from whom the cesses are rigorously realised, like instalments of the same character should be provided for in the payment by the zamindars of their dues.

The question, though complicated, should be considered. There is no reason why the zamindar alone should be sacrificed. In such cases, I should think, the beneficiaries of the cesses should be asked to collect their own dues, and let the zamindars be relieved from the thankless and unprofitable task of collection.

Q. 87. Agricultural banks financed by Government may be successful in reviving to a great extent the rural credit. Lest the banks are subjected to frauds they should work in co-operation with the zamindar's agents, from whom particulars of the properties and information about the solvency of the debtor-applicant should be collected; and low instalments of repayment should be provided; but punctuality of repayment at the fixed time should always be rigidly observed. Advances may be made from the banks as well, to pay off the debts as settled by the Debt Settlement Boards, where the creditors may agree to cut off their claim further, if immediate payment of the balance of the debt is made. Advances may be made for the consolidation and repayment of debts. At any rate the move suggested, if properly worked, will be of great benefit to the rural population.

Q. 88. I have no experience of the Land Mortgage Banks functioning anywhere in the interior for the benefit of the agriculturists.

Q. 89. The machineries available for prompt and compulsory realisation of the zamindars' dues are cumbrous and they have been harassing to the landlords and tenants as well. So many technicalities, rules of law and procedure, and rules of Civil Procedure Code have got to be observed—that the delay sometimes becomes inevitable. When the cadastral survey and settlement have been finished in almost every district, there is no reason why the summary procedure of certificate should not be made available. The certificate procedure being abolished, and a rent suit within nine months of a previous suit being barred, prompt realisation has been effectively stopped. Procedure of distraint of crops was abolished, and it came to be hedged in with so much technicalities involving costs, that the zamindars were not enthusiastic over the measure. Personal service of processes being made almost a *sine qua non*, the disposal of a case becomes necessarily delayed. Rules for the attachment of properties in a jurisdiction, outside the jurisdiction of the Court where the suit is instituted, are so elaborate that delay is the inevitable result. The rules of service on the resident tenants have been surrounded by so many conditions, that the relief wanted to be given is nugatory. Sale of moveables is almost an impossible thing in an execution case before a Civil Court. Above all, the dishonesty and the rapacious demands of the Civil Court officers, especially the peons, retard even the fruitfulness of a case.

The following suggestions are made :—

(1) Time more than a month should not be allowed to elapse in any circumstances to make the case ripe for hearing; and more than a fortnight after the case is ripe for hearing should not be allowed to elapse before the pronouncement of the judgment. Execution case may be allowed to be filed immediately after the decree is signed; and if there is a sale, and the property—moveable or immoveable is khas purchased, boynama (sale certificate) should immediately be given to the purchaser by the Court on its own initiative.

(2) Instead of Court guardians of minors, appointment of natural guardians should be made the rule, and failing that Court guardians may be appointed.

(3) Distraint of crops should be again provided, and the landlords should be allowed to apply for distraint and attachment of crops with their plaints, and the crops may be sold and the money secured by the sale may be kept in deposit till the disposal of the case.

(4) (*a*) Service of process should be made, one copy through post office, and the other through the Union Boards; and service through either of the agencies should be taken as effective service.

(*b*) Production of postal receipt should be taken as conclusive evidence, and the report of the serving agency or peon should also be taken as conclusive, unless a definite charge of collusion or mistake is made.

(5) Courts before which an execution case is pending, should have jurisdiction over property outside its jurisdiction in an execution case.

(6) (*a*) Service of processes of rent suit or decree should be taken as conclusive, if proved to have been made on all the resident co-sharers tenants of the village, in which the land is situated.

(*b*) If none of the tenants live in the village, then the service should be made on all the resident tenants or the heirs of the tenants, recorded in the settlement record and the decree will be a rent decree.

(*c*) If no steps have been taken for the correction of a settlement record for six years after final publication, the tenants recorded, or their heirs, should, for the purpose of a decree for rent, be taken as the tenants of the holding or tenure, and a decree passed for rent should be a rent decree.

(*d*) When in the execution petition sale of moveables is prayed for, the writ of attachment and sale should issue within a week after the filing of the application; and it should be made incumbent on the peon or officer, executing the writ, first to go to the mal cutchery of the zamindar, and thence to go to judgment-debtor's house accompanied by an identifier supplied from the cutchery.

(*e*) In case any obstruction by the judgment-debtor is reported by the peon, the Court should consider the report, and if satisfied, should immediately send it for hearing by the nearest Magistrate of the First Class.

(7) Landlords should be given the power as before to institute suits whenever any instalment of rent falls due.

(8) In rent suits damages double the amount of interest payable should always be awarded. This is expected to act as a deterrent on the habitual evasiveness of a tenant to pay his dues.

(9) (*a*) A tenant should be considered to be a "habitual defaulter", if for the realisation of dues from him three consecutive rent suits had to be instituted against him; and

(*b*) in cases of habitual defaulters of damages must be double than the damages awarded against an ordinary tenant, and the distraint application should immediately be granted, whenever it is filed.

(*c*) A tenant's possession of the land after khas possession is taken through Civil Court after the lands are purchased khas, should *ipso facto* be considered as illegal, and his position should be made as that of a trespasser: and Criminal Courts should maintain the possession of the purchaser after he takes his possession through Civil Court.

(*d*) When possession is taken of a land through the Civil Court, possession should be given also of the lands under the homesteads standing on it, by breaking them down at the cost of the decree-holder. There must not be another suit or proceeding for the purpose.

(10) Court fee values should be reduced, vakalatnamas should not be made necessary for execution and possession proceedings, arising out of a rent suit.

The effect of these will reduce harassment on the landlord and the tenant alike.

Q. 90. I do not consider certificate procedure harassing either to tenants or the landlords. To pay is always harassing, whether the debtor is the landlord, or the tenant. The disinclination to pay, and the indulgence and undue relief given, give rise to the mentality to evade payment of the dues.

The procedure prescribed for landlords to get certificate power is very harassing and costly especially in the maintenance of records; and the inconvenience is more costly when the maintenance has to be done for lands subject to alluvion and diluvion.

Q. 91. The question is very wide, and so difficult to answer. If simple repeal of the old Regulations and Acts, and their recodification in a consolidated form is what is suggested, I would support the suggestion.

Q. 92. It is impossible to give any answer within the time that has been allowed to me.

Q. 93. The economic effect on the landlords has been extremely harassing. It has been over and over again stated that they have been subjected to loss from all sides, and are bereft now of all means to realise their dues. Salami on transfers is gone, pre-emption is gone, liberty to sue has been restricted, interest realisable from all classes of tenants,—patnidars downwards,—has been reduced, in substance, they are now out and out rent-collectors with all means of prompt realisation taken away. The economic effect can be well estimated from the above. From loss on all sides, the result can only be loss.

About 2 per cent. of their income has been taken away by the abolition of the provisions that were made in the Act of 1928 for salami on transfers.

Reply by the Additional Manager, Burdwan Raj.

Q. 1. There were other objects of the Permanent Settlement besides those stated in (*a*) and (*b*), viz.—

(*i*) To exact the maximum possible revenue out of the total assets of the estates as ascertained at the time.

(*ii*) To ensure punctual payment and thereby to put the revenue system on a stable basis.

(*iii*) To offer scope for thrift and individual enterprise.

To say that the Permanent Settlement imposed a duty on the zamindars to extend to their subordinate tenants the same generous treatment which they were to receive from the Government is perhaps not precise. The zamindars could not possibly give unto their subordinate tenants all that they received from the Government in recognition of their proprietary rights. They were only expected to "conduct themselves with good faith and moderation towards their dependent talukdars and raiyats."

The Permanent Settlement being an engagement between the Sovereign and the zamindars could not and did not take away any existing rights from the tenants.

Q. 2. The Permanent Settlement did not expressly convey any such power to the zamindars; this power is implied inasmuch as it follows from the recognition of their proprietary right. Unless a zamindar has the right to choose his tenants from whom he is expected to collect the land revenue he cannot rightly be held responsible for punctual payment of revenue and unless he has the authority to regulate the usage of the land he cannot do his part in the development of economic interest of the province.

Regarding choice of tenants Mr. Harrington says in his Analysis:— "The choice of his tenants is important to him (zamindar). By the transfer he may lose men of substance and responsibility for men of a different character and thereby be, at least, exposed to trouble, if not risk. The character of the purchaser may also be, in other respects, objectionable." (Vol. III, page 460.)

Assuming even for the sake of argument that the zamindar is a mere collector of revenue he ought to have a right to choose the tenant in the event of there being a transfer, otherwise he cannot in justice and equity be held answerable for default of the revenue which he is to collect from the transferee.

Q. 3. The part played by the landlords in the economic development of the country since the time of the Permanent Settlement was very great.

The reclamation of waste lands all over the country so far as has been done up to now was mostly if not wholly due to their endeavours and pecuniary aid; in some cases they did this at their own cost with hired labourers, in other cases they helped the tenants with necessary funds or allowed them to enjoy the lands free of rent for successive years until their labours were amply repaid. The tenants being as resourceless in the past as now would do nothing unless the incentive as well as the funds came from the landlords who were not only their only patrons but their only guide up to the near past. It was the landlords who established free religious and educational institutions for the spiritual and intellectual advancement of the people which made them fit for adding to their resources.

They encouraged arts and industries by making free gifts of lands to artisans and labourers (*vide* Hunter's *Statistical Accounts*, Vol. IV, p. 77-78). They constructed and maintained embankments and canals and tanks for the furtherance of agriculture.

They made roads and founded *hats* and markets for the sale of agricultural produce and products of art.

They established charitable institutions (sadabratas) for the purpose of supplying food to the famished and saving the lives of the people in years of famine and scarcity.

As an officer of the Burdwan Raj estate I know that this estate spent within the last 80 years Rs. 59,12,500 for agricultural improvements, Rs. 6,44,200 for roads, Rs. 24,98,800 for educational institutions and spends Rs. 60,299 annually for productive and protective purposes besides incurring other expenditure on humanitarian objects. I am sure other great zamindars have done their parts similarly. There may be instances of failure but those are only exceptions and due to individual failings. It is unjust and untrue to the extreme to stigmatise the landlords as a class for the failure of individuals as there must be black sheep in every fold.

Q. 4. The statement is not true. The proprietary rights of landlords originated long before the British Rule in India, at least as far back as the Moghul period. According to Sir John Shore—this right might have existed even before the Muhammadan conquest.

According to Manu, land was the property of him who first cut the wood and tilled it; a deer was the property of the hunter who first hit him fatally. This might have been the rule in the primitive ages as we find the same principle accepted up to now with regard to "no man's property." At a time when the idea of property and ownership did not dawn in human mind, when all the earth lay unclaimed and people did not know how to utilise it for their subsistence, the man who

first cleared the jungles and tilled the land was given the right to enjoy the fruits of his labour. This right was however anything short of the proprietary right as we understand it today. The exact nature and extent of this right cannot be ascertained as it was never precisely defined by the Hindu jurists but presumably it was restricted to the kind of user and enjoyment that was known and practised at the time.

James Mill in his *History of British India* says:—

"At different times, however, very different rights and advantages are included under the idea of property. At very early periods of society it included very few; originally, nothing more perhaps than use during occupancy; the commodity being liable to be taken by another, the moment it was relinquished by the hand which held it; but one privilege is added to another as society advances: and it is not till a considerable progress has been made in civilisation, that the right of property involves all the powers which are ultimately bestowed on it."

Then again who was the tiller of the soil to whom this right—whatever the connotation is—was given? It is not perhaps correct to suppose that it is always or invariably the man who actually held the plough and drove the cattle for we find that as the caste system developed with the advancement of civilisation, the three upper castes, viz., the Brahmins, the Kshatriyas, and the Vaishyas enjoying a kind of limited proprietorship with regard to land which Sudras (slaves) "the actual tillers of the soil" were not allowed to possess. These upper classes had to pay a share of the produce (varying usually from 1/6th to 1/4th) to the King in recognition of his paramount power and in return for the protection which was offered to them. The Sudras who actually tilled the soil were not therefore the proprietors in any sense of the term. They were rather the servants or slaves of the three upper castes (*vide* Halhed, page 11). Whatever might have been the position of the "first tiller" in the primitive ages the same maxim cannot hold good now when every inch of land is claimed by someone or other in proprietary right in the widest sense of the term, no matter whether the right is inherent in him or derived from the Sovereign or established by long usage and undisputed enjoyment or created by contracts under sanction of the laws of the land. The man who first tilled the land is no longer in the scene; the present tiller is either a hired labourer or a man who was introduced into the land by his landlord on a clear and definite understanding with limited rights; so it is opposed to common sense to bloster him up as the proprietor of the soil. I daresay there is not one among the present tillers of soil who can trace his connection with the first tiller of the forgotten past either through succession or through private purchase.

According to the scriptures (Rig-Veda 15th Mandal viri 8,173) the King had the right to receive a sixth share of the produce of the soil

as also other customary offerings. According to ancient Hindu jurists the King had the right to receive the customary revenue (1/6th of the gross produce) and the tenant had the right to *possess and enjoy* the usufruct. The rights of the King to receive the revenue was probably in recognition of his position as the lord paramount of the soil; (this is consistent with Manu's description of origin of the earth in which everything is attributed to King Swayambhuva and 6 others (Sristi Prokarana, Chapter 1, Sl. 63) or it was probably in lieu of the protection which the King offered to his subjects. In any case the tenant was not the only person who had any interest in the land—there was the King even from the oldest times to claim his share. The King however did not collect his share from individual cultivators but from the community represented by a headman.

The aggregate harvest was called into a common heap and the share of the State was set aside by the headman before the general distribution. Between the village headman and the King was a chain of civil officers, consisting of lords of 100 villages and lords of 1,000 villages. These were responsible for the collection of the revenue, for which they were remunerated by fees in kind, by a portion of the King's share of the produce, or by holding land revenue free in virtue of their office.

(Report of the Indian Taxation Committee, 1924-25, P. 53, also Field's Introduction to the Regulation, p. 22, 27.)

These officers were next in authority to the King and were entrusted with the supervision and control of village affairs like the Patriarchs of Roman Empire.

We find a reference to such village lords (or Grama Swamis) in Shaunaka's Dattaka Chandrika.

Their position now is, therefore, well established and the rights which they now possess were vested in them long before British Rule in India. "The notion of the proprietory right of the Sovereign is" according to H. H. Wilson "rather of Muhammadan than Hindu origin".

Grant of extensive zamindars, jaigirs and creation of freehold tenures by Muhammadan Emperors for distinguished service or military considerations were very common. Most of the ancient zamindars and talukdars received their grants from the Moghul Emperors. By these grants and sanads, zamindars and independent talukdars were vested with proprietary rights and were entrusted with the collection of revenue as well as all sorts of duties and taxes (e.g., sayer tax) and also with internal administration of their estates. The Crown retained merely the right to receive revenue.

This view finds support in the following extract:—

"The principle that the land belongs to the zamindars and the rent to the King found acceptance with the Muhammadan Rulers (Harrington's Analysis Vol. III, pages 232 and 245).

This was the actual position which Lord Cornwallis found in Bengal when the Permanent Settlement was effected and that was why the zamindars were recognized to be the actual proprietors of the soil in unmistakable terms. The Permanent Settlement did not elevate the zamindars from the position of revenue collectors to actual proprietors —it simply gave a fair recognition to their pre-existing rights.

However uncertain might have been the position in the early Hindu period, the weight of authorities seems to justify the conclusion that the zamindars were recognised as the proprietors of the soil during the Moghul Rule and this was never since disputed either by the Sovereign power or by the tenants. I quote below some of the authorities by way of illustration:—

"I consider the zamindars as the proprietors of the soil, to the property of which they succeed by right of inheritance, according to the law of their own religion and that the Sovereign authority cannot justly exercise the power of depriving them of the succession nor of altering it, when there are legal heirs.

"The origin of the proprietary and hereditary rights of the zamindars is uncertain; conjecture must supply what history does not mention; they probably existed before the Muhammadan conquest and without any formal acknowledgment, have acquired stability by prescription.

"I do not admit the sanad which the zamindars sometimes receive to be the foundation of their terms which, though it may acquire confirmation from it, exists independent of this deed. The origin of the possession of some zamindaris may be traced to a grant, but the inheritance goes on without it.

"The privilege of disposing of the land, by sale or mortgage, is derived from this fundamental right, and was exercised by the zamindars before we acquired the Dewani." (Mr. Shore's Minute of June 1789.)

"It seems proper to remark that at the time of resuming the *sayer* collections from the landholders doubts were entertained of the justice and expediency of the measure founded partly on the declared proprietary rights of the landholders." (Harrington's Analysis, Vol. II, page 226.)

"I admit the proprietary rights of the zemindars and that they have hitherto held the collection of the internal duties." (Minute of Lord Cornwallis of 3rd June, 1790; Harrington's Analysis, Vol. II, p. 228.)

(*Also see* Field's Introduction to the Regulation p. 368; p. 34 for description of a zamindari tenure.)

Q. 5. That the annulment of the Permanent Settlement would be a breach of a solemn pledge given to the zamindars by the Sovereign authority is a fact which cannot possibly be denied by the most radical advocates of its abolition. Couched in clear and emphatic terms the pledge stands in the time hounoured Regulation "that the zamindars, the independent talukdars, and other actual proprietors, with or on behalf of whom a settlement has been or may be concluded, are to consider the orders fixing the amount of the assessment as irrecoverable and not liable to alteration by any person whom the Court of Directors may hereafter appoint to the administration of their affairs in this country."

It enjoins the zamindars " to exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry and that no demand will ever be made upon them or their heirs or successors by the present or any future Government for an augmentation of the public assessment in consequence of the improvement of their respective estates." It was not a boon exacted from an unwilling Government by a recusant body of landlords but a voluntary promise made by the ruling power under advice of renowned statesmen, not merely for the benefit of the landlords but also in the interest of Government and for the general welfare of the country. It is no wonder if the landlords view this promise as sacrosanct or inviolable. Any one who considers promise as anything more than mere sound waves or contract as anything better than a waste paper would think likewise. Relying on the promise of the ruling power, assured under the sanction of law, the zamindars spent large amounts for the improvement of the lands and people purchased zamindari properties at enormous costs. To deny them now the proprietary right which they admittedly and expressly enjoyed for nearly a century and a half is opposed to all sense of reason and justice. They have as much right to claim the properties as their own as any other capitalist can claim a factory or a business concern which he has built with his funds. To deprive the zamindars of their estates by annulling the Permanent Settlement would be absolutely a confiscatory measure the like of which is not to be found in a civilised Government unless it is imbued with communistic principles. The contention that the tenants were not a party to the pledge of the Permanent Settlement carries no weight. In an arrangement between the Government and the zamindars the tenants do not and cannot come in unless any of

their vested rights are affected. There is nothing in the Permanent Settlement that affects the rights of the tenants. To say that the Permanent Settlement crippled the financial resources of the country is a misunderstanding of the exact position. As I have already said one of the main objects of the Permanent Settlement was to put the land revenue system on a stable basis and to obtain a guarantee for punctual payment of revenue without any claim of reduction or remission for failure of harvest or other natural causes. The administrators at the time considered this to be of far greater importance than the mere possibility of a future increase in the revenue. It is not correct to criticise the measure with reference to present day circumstances. If the rent roll of the permanently settled area has increased from 3 crores to 12 crores the bulk of it is due to reclamation of waste lands through the efforts and resources of the zamindars as from the statistics collected by the Land Revenue Commission we find that only 15·94 per cent. was due to enhancement of rent. In view of the assurance given by the Government to the zamindars in terms of the Permanent Settlement that they would enjoy the fruits of their labour and of the extended cultivation of their soil, the Government cannot consistently claim any share of the increase of resources due to reclamation of waste lands. The following extract from Mr. Grant's Review of the Revenues of Bengal shows the position before the Permanent Settlement and justifies the measure sufficiently:—

"Dissatisfied with the collection of revenue for 1760-61 they (the 1st Superintendents, Mr. Johnston, Mr. Hay and Mr. Bolts) farmed out the estate at public auction for a period of three years, a procedure which was directly opposed to the financial practice of the Moghul Empire. The needy adventurers who became contractors at the sale, as might have been expected, failed in their agreements, and matters went steadily from bad to worse. The Superintendents were charged with every sort of corruption, and apparently they did as a matter of fact hold a considerable part of the district in their own hands."

Phillip Francis, the earliest advocate for the Permanent Settlement, considered this as the medium through which alone the East India Company could derive a fixed and permanent advantage from their territorial acquisitions. "They who profess to make every other consideration," he said, "yield to that of immediate profit to the Company, either do not understand the true and lasting interests of the Company or they mean only to captivate your present favour * * * You have seen and felt the consequence of those measures, which professedly had no view but to obtain an instant unlimited tribute from every land of this country. A more moderate system will not promise you such immense ideal returns in future, but it will probably secure to you a fixed unalterable fund for the provision of as great an investment as

you have usually received in Bengal and on which you may reckon forever." (P. Francis's Letter to Court of Directors, dated the 22nd January 1776.)

Q. 6. The landlords have done their part as I have already said in my answers to questions 3 and 5 above, but fulfilment of expectations is subjective, none can be very sure that he has fulfilled the expectations of another whom he is given to satisfy.

The following extract from a speech of His Excellency the Governor-General is a complete answer to the question:—

"The great importance of the landed interest lies in its potentialities for good and the contribution which it is in a position to make to the welfare of the countryside whether in terms of improvement of the condition of tenantry, or in terms of the development of natural resources and the introduction of up-to-date appliances and methods of farming. Very much has, I know, been done in this direction by enlightened landlords. Much must inevitably remain to be done in a country of the size of India, a country distinguished by such varieties of soil, climate and agricultural problems, and I am sure that you, gentlemen (landlords) with your great responsibility are as fully alive to this as any one can be." (Speech of Lord Linlithgow, delivered on 11th December 1938.)

(Please also see answers to questions 16 and 20 for the social and economic part played by zamindars.)

The exact proportion cannot be determined but one who has direct knowledge of the activities and resources of the landlords and raiyats will have no hesitation in saying that by far the largest portion is due to (*iii*). Increase in population merely creates a necessity for finding more provisions, it cannot by itself extend cultivation which must depend mainly on resources. The demand for additional provisions may be created by increase in population but not the supply.

Q. 7. It is just possible that 3 crores at the time of Permanent Settlement is based on returns received from the zamindars or others whose interest it was to understate the gross assets and we cannot also be very sure that 12 crores or 16 crores as recorded at the cess re-valuation proceedings are correct as we find the re-valuation figures questioned so often and proved to be inaccurate. Admittedly, however, there must be a considerable difference and in my opinion this is due mostly to cause (*i*) and a little to cause (*ii*) and only 15·94 per cent. to (*iii*).

Q. 8. The zamindars have done their part generally with few exceptions, if there be any; but fulfilment of expectations is quite another aspect of the case as I have already said. It will not perhaps be an exaggeration to say that in some respects they have given more

to their tenants than what they got from the Government in terms of the Permanent Settlement. Just as the Government fixed their revenue permanently so also the zamindars in their turn let out their lands in perpetuity at fixed rent and in doing so they sacrificed their future income as much as the Government did in their case. Examples are not wanting to show that zamindars have from time to time accorded generous and kind treatment to their raiyats by granting remissions of rent to their tenants in need though they themselves never received any remission from the Government. As an officer of Burdwan Raj Estate I know that the Maharajadhiraja Bahadur granted remission of rent to the extent of Rs. 32,69,802 within the last 38 years, though he has been paying the full revenue to the Government kist after kist punctually. They have made large gifts for the physical, intellectual and spiritual welfare of the people; they have supplied food and funds to their tenants where the Government failed. I am not aware if there are many who failed in their duty to the tenants. The relationship between the landlords and tenants was all along happy until it was recently embittered by people who were actuated by motives other than the real welfare of the peasants. I may further add that what was left to the good sense of the zamindars in the terms of the Permanent Settlement was taken up to be achieved by subsequent legislations and as the position is at present, the zamindars need greater protection than the raiyats.

Q. 9. My answers to questions 3, 6, 7 and 8 and answer to question 1 above may be seen. I do not think that the zamindars, with the exception of a few, have failed in their duty. The failure is not in my opinion due to absenteeism or want of close touch. It may be due to individual temperament or want of resources. A small zamindar with a limited income cannot possibly do as much on his own little property as a big zamindar may do in respect of his estate even if the former has as much wish to improve his village as the latter. Whether a man lives in his village in close touch with his tenants or remains far away is more or less immaterial in as much as it is always the inner man that makes a sacrifice, the physical contact counts for nothing. England rules India from across the seas yet it is reputed to be a good Government but the village tyrant robs his next door neighbour whom he meets every hour in the day. As a matter of fact we find that the big landlords who have done the greatest good to their estates are the absentees and even small landlords who are seldom seen in the outskirts of their village are sometimes known to be most rapacious and oppressive. Further, it is not understood what attendance is necessary to cure absenteeism; if a zamindar has ten thousand villages within his estate scattered over six or seven districts, he cannot possibly live in each village for a day once in 27 years. Will he be condemned as an absentee landlord?

Q. 10. Yes, Permanent Settlement was for the greatest good of the greatest number. Neither the Government nor the zamindars would have felt secure without this and none would have ventured to undertake enterprise or make improvements which sometimes required large capital and years to accomplish. Had there been no Permanent Settlement the revenue system would have undergone constant fluctuations. One of the avowed objects of the Settlement was to get rid of the frequent investigations and revisions of the land revenue which were considered detrimental to the prosperity of the province and to the interests of the Government as well.

The tenants have lost nothing under the Permanent Settlement. On the other hand, they have been spared to a great extent the usual oppressions and exactions of the farmers who were virtually in the position of temporary lease holders. Before the Permanent Settlement zamindaris used to be settled with the highest bidders who would reimburse themselves by squeezing poor tenants as much as they could. As a result of the Permanent Settlement we find that the tenants are not only saved from the exactions of the old farmers of revenue but enjoy their lands at a much smaller rate of rent than what is paid by tenants in Government khas mahals and temporarily settled estates (*vide* Statement IX).

The value of the average produce per acre being Rs. 49 (Statement I) and the raiyati rent being only Rs. 3 per acre the raiyat gets at least 8 times as much as big landlords do out of the produce of the lands after meeting the expenses of cultivation. It is therefore altogether absurd to say that the Permanent Settlement has benefited the landlords at the expense of the tenants.

Q. 11. This is not a fair criticism. Each of the grounds are examined below:—

(*i*) It is not correct to say that the zamindars appropriate nearly 80 per cent. of the income from land.

"The assessment was fixed approximately at 10/11ths of what the zamindars received in rent from raiyats, the remaining 1/11th being left as the return for their trouble and responsibility" (Taxation Committee's Report, Vol. I, page 42, also see page 266). It should be remembered that the zamindars are seldom if ever able to realise the full rent that appears in the rent roll. Demands for remissions and concessions are too frequent owing to natural disasters. Then there are bad debts which must be wiped out. Lastly, there are the village bands of non-co-operators and "no-rent" preachers and Debt Settlement Boards to paralise all efforts in Court and out of Court. As the situation now is even the most ambitious zamindar will be content to realise a full year's rent every third year and leave the balance to be paid at the tenant's leisure. In most of the estates owned by the Burdwan Raj the

margin of profit is below 36 per cent.; it does not in the average exceed 16 per cent., while the minimum is even below 1 per cent. or nil.

(*ii*) It is not correct to suppose that Permanent Settlement has led to subinfeudation of tenancy. So far as raiyati holdings are concerned there is no subinfeudation. There are no doubt intermediaries between the zamindars and raiyats in the shape of patnidars, dar-patnidars, etc., but these are creations of necessity and mostly to be found in large and extensive estates.

(Report of the Indian Taxation Committee, Vol. I, para. 61.)

The zamindars imitated the Government by letting out their lands to others in perpetuity or for fixed terms either at fixed or variable rents for convenience of management and security of collection. These intermediaries existed since long before the Permanent Settlement in some shape or other. Personally I do not find any reason to consider this practice as detrimental to the interests of the country; on the other hand, it serves an economic purpose by distributing agricultural wealth amongst a large section of the community which has always played a very prominent part in the advancement of the society.

(*iii*) It is not understood how the Permanent Settlement has led to enhancement of raiyati rents. There is nothing in the Regulation that creates an opportunity for the zamindars to enhance the rent; on the other hand, the successive legislations enacted since the Permanent Settlement for the protection of the tenants have restrained this right of the landlords to a minimum limit. We find from the statistics collected by the Land Revenue Commission that the enhancement of rent is only 15·94 in the permanently settled area as against 37·45 in the Government estates. The position of the raiyats previous to Permanent Settlement appears in the following extract from Hunter's Statistical Accounts:—

"During native rule and for a long time after British accession to the administration, the landlords were accustomed to exact from their tenants in addition to the rent of their lands a variety of other cesses and fees called abwabs. Some of these are so closely connected with the land that they come to be considered as a part of the rent."

It cannot be denied that the present position compares very favourably with the past.

(*iv*) The system of overlordship, if there be any, has not prejudiced the interest of the cultivators in any way. Its evil effects have been checked by spread of education and proper legislation; modern zamindars have lost much of their ancient grandeur and authority. In these days of democracy it is doubtful whether any overlordship exists at all. If there be any, it is remnant of the past. Inequalities between

man and man existed in all times and in all countries. It is bound to exist everywhere and always. Even if the present body of landlords are made to disappear from the scene other overlords, presumably of a much worse type, will step into their shoes. In my opinion the criticism is more or less fanciful.

Q. 12. In my opinion the abolition of the Permanent Settlement will be unwise and injurious to the prosperity of the country. The Government will lose the security of punctual payment of revenue and the support of a cultured and influential section of the society who have readily co-operated with the Government in advancing the moral and physical welfare of the people and in maintaining law and order and the people will lose the patronage and guidance of a resourceful body whose interests are inseparably linked up with theirs.

Utopia exists in the conception of Plato. We never found a place like that in the mortal world. No system is without a flaw. Before we think of abolishing Permanent Settlement it is worthwhile considering to what extent the huge income derived from the non-permanent areas is being applied for the welfare of the tenants. It is perhaps too much to expect that the increased income of the State as estimated to the extent of 70 or 80 per cent. in consequence of the abolition of the Permanent Settlement would be utilised for the benefit of the tenants and not for the maintenance of a top heavy administration.

Q. 13. It is not correct to say that the continuance of the Permanent Settlement involves a loss to the State to the extent of 75 per cent. of the raiyati assets. 12 crores on the cess revaluation basis may be an overestimation as I have already said, besides there is a wide difference between 12 crores in figures and 12 crores in coins. In assessing the loss at 75 per cent. no account has apparently been taken of the court-fees income which the Government gets in addition to the revenue or of the possibilities of non-realisation or remission or abuses of the collecting agency whoever they are. I do not advocate the recoupment of the loss of revenue, whatever it is, by adopting any of the measures suggested in the question because:—

(*i*) The total abolition of the zamindari system will be absolutely a confiscatory measure without any justification and without any corresponding benefit to the Government or to the people.

(*ii*) The effects of temporary settlement were tested in the past and found not to be alluring. The following extract from Harrington's Analysis will further illustrate the point—"The increase of revenue expected from this settlement (viz., temporary settlement with farmers) were not realised, the farmers having engaged for a higher revenue than the district could afford; and the hereditary landlords, from whom an improvement of the country might be naturally looked for under a

permanent assessment, being, in general, excluded from the management of their estates." (Harrington's Analysis, Vol. II, page 21.) Even at present we find that the tenants of temporarily settled estates are not in a better position than the tenants of permanently settled estates. So it is no good reverting to an old system which was found to be unsatisfactory not only from popular point of view but also from the viewpoint of the Government.

(*iii*) The imposition of a tax on agricultural income will be in direct contravention of the terms of the Permanent Settlement and will be generally unpopular if it is imposed in addition to the fixed rent which is now paid by the zamindars. The idea was discouraged by the Taxation Committee in their report as being inopportune and undesirable (*vide* Vol. I, pages 205-6).

Q. 14. I don't advocate (*i*) or (*ii*) as I have already said but if the Permanent Settlement must be abolished for any reason then zamindars should get the statutory compensation under the provisions of the Land Acquisition Act, that is, 20 years' profits and 15 per cent. compensation. If the intermediaries are supposed to appropriate 75 per cent. which the Government is supposed to lose then the amount of compensation which the Government will have to pay in buying up the intermediate interests is about 181 crores and this should in my opinion be paid in G. P. Notes bearing interest at 3½ per cent. per annum.

Q. 15. If compensation is paid in bonds, the bonds should carry interest at 5 per cent. and be redeemable in 20-25 years.

Q. 16. State purchase of zamindaris will lead to the following evils:—

(*a*) It will destroy the personal touch and friendship between landlords and tenants.

(*b*) It will extinguish the long established rights and privileges of the zamindars and will convert them into middle class men of petty resources without tradition or prestige.

(*c*) It will considerably jeopardise several arts and industries and production of expensive handicrafts and fineries which have been so long chiefly patronised by the landed aristocracy.

(*d*) It will deprive the tenants of the help and guidance they were so long receiving from the landlords in religious and social matters.

(*e*) It will extinguish a class of capitalists on whose munificence a good many of the present public institutions still depend.

(*f*) It will revolutionise to a great extent the social and administrative system of villages.

(*g*) It will render people solely dependent on Government for every sort of help or enterprise for which they had so long looked to the zamindars.

(*h*) It will cause local affairs to be managed by Government officials most of whom coming from outside the district or holding transferable posts can scarcely be expected to get familiar with the internal condition of the locality within the short span of their service or to deal sympathetically and tactfully with local problems. The position occupied by the zamindars in the social structure of Bengal is very well illustrated in the following extracts:—

"The natural and acknowledged leaders in the country areas are the landed aristocracy. They generally represent ancient and well born families and their estates are often the result of conquest or grants of some mediæval monarch. By position, influence and education they are fitted to take a leading part in public affairs. Some of them are beginning to do so. They stand upon a conception of social order which is not easily reconcilable with the hustings and the ballot box (Report on Indian Constitutional Reforms, 1918, page 94, paragraph 147).

The following passage from Harrington's Analysis is also illuminating:—

"From a long continuance of the lands in their families it is to be concluded they have rivetted an authority in the district, acquired an ascendency over the minds of the raiyats and ingratiated their affection" (Harrington's Analysis, Vol. II, pages 17-18).

Q. 17. If the zamindars must go and their interests purchased then all the intermediate interests between the Government and the raiyat should also be purchased otherwise it will serve no purpose. I do not think that the change will lead to any advantage.

Q. 18. I am not sure if it is possible to estimate it even roughly at the present stage.

Q. 19. The rate of rent under the zamindari system is far below the rate of rent in khas mahals (*vide* list of statistics, Statement IX) and as such raiyats can scarcely be expected to prefer coming under the Government. Moreover the machinery for prompt realisation of khas mahal rent is very much oppressive to the tenants. The tenants of the estates under Court of Wards have shown their discontent against the rigorous methods of realisation of rents. Enhancement of rent is more frequent and more burdensome in the case of khas mahal tenants than in the case of tenants in zamindari estates; yet remissions of rent and several other favours in the shape of pecuniary aids or gifts of articles are not as readily available from the Government as from the zamindars. In such circumstances I cannot think for a moment that the tenants in zamindari estates would covet the position of khas mahal tenants.

Q. 20. Subinfeudation cannot be called an object of Permanent Settlement though the Permanent Settlement might have given it an impetus. Subinfeudation was present to a certain extent even before the Permanent Settlement. In the management of big zamindaris subinfeudation is unavoidable.

After the Permanent Settlement zamindars came to be permanently established in their estates. Unlike the casual farmers who took temporary leases from the Government in the days of the East India Company, zamindars came to identify themselves with the social and economic problems of the day. Since Permanent Settlement they have been occupying an important place in society and not infrequently have been called upon to pronounce their verdict in cases of infringement of social laws and to render all possible asssistance for the proper observance thereof. Loyalty and homage to the throne which are some of the distinguished characteristics of the eastern people fostered chiefly through the support and example of zamindars. It has had the following effects on the raiyats socially and economically:—

(1) Owing to fixity of revenue occasion for oppression on tenants no longer existed; for every increase of revenue is bound to be followed by a corresponding increase of impositions on tenants.

(2) Both zamindars and raiyats knew their financial position better and had ample facilities for industry and enterprise.

(3) Several types of cottage industries and fine arts flourished and received impetus.

(4) Zamindari system has helped to grow feudalism in India and has created various types of service tenures and endowments such as "debottar, pirottar, brahmottar, etc." (*vide* Hunter's *Statistical Accounts*, Vol. IV, pages 77-78).

Q. 21. This will possibly lead Bengal half way to Russia. Similar results are expected to follow as has been stated in my answer to question 16. The following passage from the writings of Mr. E. Burke is instructive in this connection:—

"The idea of forcing everything to an artificial equality has something, at first view, very captivating in it. It has all the appearance imaginable of justice and good order; and very many persons, without any sort of practical purpose, have been led to adopt such schemes and pursue them with great earnestness and warmth. I am, for one, entirely satisfied, that the inequality which grows out of the nature of things, by time, custom, succession, accumulation, permutation, and improvement of property, is much nearer to true equality, which is the foundation of equity and just policy, than anything that can be contrived by the tricks and devices of human skill. What does it amount to, but that, after some little jumbling, some men have better

estates than others. I am certain that when the financial system is but tolerably planned, it will catch property in spite of all its doublings; and sooner or later those who have most will pay most; and this is the effective equality, which circumstances will bring about themselves if they are left in their own operation" (*Life of E. Burke* by R. Bisset, Vol. II, page 147) (*also see* Taxation Committee's Report in this connection, Vol. I, paragraph 99).

Q. 22. Zamindars should have the option to retain their homestead as well as khas lands on payment of reasonable ground rent in case State purchase of zamindaris and tenures is indispensable and they ought to be allowed to retain possession of their revenue free lands free of rent.

In determining zamindar's or tenureholder's khas lands documents relating to those lands as well as Government records should be taken into account. The criterion should be as to whether the landholder in question has acquired the property as landlord (e.g., in lieu of rent) or whether he has purchased or inherited it like his tenants.

Q. 23. Occupancy right is not a creation of British legislation. Before the enactment of the Tenancy Laws, Act X of 1859, Act VII of 1885, this right seems to have been enjoyed exclusively by the khudkasht raiyats as a matter of custom. After these enactments the privilege was extended to other classes of tenants including the paikasht raiyats.

See—(1) Shore's Minute of 28th June 1789, paragraph 389.

(2) Field's Introduction to Regulations, pages 24-26, 40.

(3) Harrington's Analysis, Vol. II, page 64, Vol. III, pages 437-38.

The tenants' right of enjoyment was also recognised in the early Hindu period (Manu).

Q. 24. I do not support this view. Proprietary rights of the landlords to the soil have been recognised from ancient times and have been well established by long and undisputed usage supported by law. My answer to question 4 above may be seen in this connection. It is too late in the day now for the raiyats to claim the right or to say that "rent" is not rent but tax. Rent has been defined as "that which one pays for the use of durable goods of any kind owned by another" (Ely). Ricardo defines it as "that portion of the produce which is paid to the landlord for the use of the original and indestructible powers of soil." A tenant was never the proprietor in the true sense of the term as his right was restricted to occupation and enjoyment of the land and a portion of its products. This right he has even now but he was never known to be proprietor at the same time.

Q. 25 & 26. I am not in favour of extending occupancy right to different grades of tenants as this will lead to fragmentation of the holding and will increase the difficulty of collection. Right of occupancy should be given to the statutory raiyat—whether he is the actual cultivator or not, so that the difficulty mentioned in (*a*) and (*b*) may not arise.

Q. 27. Though the object of the Permanent Settlement was "to promote the future ease and happiness of the people" generally, its obvious intention as expressed in section VIII was to protect the agricultural classes which formed the great bulk of the population and who were considered to be more or less indigent.

I am not in favour of giving occupancy rights to non-agricultural classes. The non-agricultural tenancies are creations of contract and the provisions of the Contract Act and Transfer of Property Act are sufficient to protect their interests.

Q. 28. There is no reason to think so. But that is a matter entirely between the landlord and the tenant and there is no reason why the State should levy any additional tax for such conversion.

Q. 29. Yes. The increase is due to the following reasons:—

(*a*) Change of pursuits: many have left the plough in quest of service or other better avenues of activity.

(*b*) Physical incapacity to endure hard labour.

(*c*) Transfer of occupancy holding to non-agriculturists or to those bigger agriculturists who have more lands than they can themselves till.

(*d*) Migration of cultivators to towns owing to increasing insanitary condition of villages.

(*e*) Growth of industrial concerns, mills, factories inviting highly-paid labour. Statement VII of the statistics shows that between 1924 and 1931, agricultural population has much decreased. This decrease is due to one or the other of the above factors to some extent.

Q. 30. Besides those enumerated under question 29, the three other causes suggested in this question also contribute to some extent to the increase in the number of bargadars.

Q. 31. The area varies according to the capacity and resources of the bargadars. On the average a bargadar will be usually found to hold 5 or 6 bighas. Many of them have lands of their own held in raiyati or under-raiyati interest.

Q. 32. No, this may fix up undesirable tenants on the holding and cause fragmentation of holdings. This may likewise invite people of

other provinces to come and settle in Bengal which is already over-populated. Evils mentioned in question 34 are also likely to arise.

A bargadar generally does not undertake any responsibility. He simply gives a share of the produce to the true owner and that share is always in accordance with the prevailing standard. Often does he require the owner to supply manures or advance money without interests for carrying on cultivation. If there is any produce he gives the agreed share to the owner, if there is a total failure of crops he gives nothing and has no liabilities. It is in substance a service with a prospect of gain which is much more than he could earn as a labourer on wages and as such there is no occasion for giving him any protection unless a landlord or a raiyat who invested money on the land can be given the same protection against failure of crops.

Q. 33. There is one great disadvantage in this system. As a general rule the bargadars do not take good care of the lands or sufficient interest in cultivation as a result of which the productive power of the land gradually deteriorates but at the same time it is to some extent a necessary evil as this system is frequently resorted to by women and minors and absentee cultivators who cannot for some reason or other till their own lands nor have means enough to meet the expenses of cultivation. The abolition of this system will mean an absolute deprivation to these people and their lands will probably lie fallow and ultimately become entirely unfit for cultivation. The further extension of this system to an undesirable limit may perhaps be checked by restricting the transfer of occupancy holdings, by improving the sanitation of villages and making agriculture more profitable than at present.

Q. 34. My answer to question 31 above may be seen. Yes, the zamindars shall, in all probabilities, keep the lands in their khas possession and a considerably large number of bargadars will be thrown out of employment.

Q. 35. The proportion is generally found to vary from ½ to ⅓ of the produce and is determined more or less by (*i*) usage, (*ii*) economic considerations, (*iii*) mutual agreement, and (*iv*) fertility of the soil. As to whether any such proportion is fair must be judged according to the prevailing circumstances and also with reference to the custom of the locality. No uniform general rate can be prescribed.

Q. 36. Wages of agricultural labourers in western Bengal usually vary from 4 as. to 6 as. per diem according to demand. This income is much more uncertain than that of a bargadar or an under-raiyat. If the latter work honestly they in most cases earn more than what a labourer would do. A labourer on the other hand may not often find employment though he may have the will and capacity to work but

even in bad years he has some income which a bargadar or under-raiyat may not have. As however failure of crops comes only at intervals of years, under-raiyats and bargadars are generally found better off than agricultural labourers.

Q. 37. Yes. Both the Acts have facilitated transfer of considerable areas of raiyati holdings to non-agriculturists. This unrestricted transfer is prejudicial to the interests of the actual tiller. The cultivators as a class are improvident and uneducated. They fall an easy victim to the usurious moneylenders and unscrupulous landgrabbers and transfer their holdings thoughtlessly. It will be to their own interest if they are put under some restraint as the tenants of Manbhum on Sonthal Parganas. By restricting transfer to agriculturists only the position may be improved so far as agriculture is concerned but the position of the transferer will remain as precarious as now.

Q. 38. The meaning of the expression "economic holding" is not quite clear. If it means a holding which is just sufficient for the subsistence of a man then for a family of 5 members an economic holding should consist of 8 acres of land but if the lands yield 2 crops annually then a smaller area, say 4 to 5 acres, will suffice. The extent of the holding must necessarily vary with the value of the annual products, productivity of the soil and cost of cultivation.

If the expression means distribution of agricultural lands with reference to agricultural population then the area of an economic holding will be nearly 5 acres for a family of 5 members.

Q. 39. Yes, the holdings are mostly uneconomic and causes of subdivision and fragmentation are as stated in the question.

Q. 40. Yes, consolidation of holdings is desirable for the purpose of economic cultivation; but it is difficult to carry it out in the face of the obstacles mentioned in question 39. The difficulty can however be overcome to a certain extent by legislation restricting fragmentation below the economic standard and enabling the landlord to purchase the entire holding to avoid fragmentation. The Bengal Tenancy Amendment Act of 1938, worked however quite the other way.

Q. 41. Yes, I would, if that is fair and reasonable.

Q. 42. Accumulation of large areas in the hands of raiyats not having the capacity of cultivating the lands is harmful not only to the lands but also to the general body of cultivators. It leads to subinfeudation and multiplication of bargadars and hampers the progress of agriculture. It should therefore be limited to the cultivating capacity of the purchaser in such cases. On the other hand, such

accumulation is not only desirable but necessary in the case of zamindars, tenureholders and capitalists having sufficient resources for the purpose of large scale production as well as for scientific agriculture from economic point of view. Enough lands should however be left for the subsistence of actual cultivators in any case. It is difficult to regulate the transfer of holdings consistently with the above principles. I am not sure if legislation in that direction will prove effective.

Q. 43. Yes, it is detrimental in the case of small holdings if a division is wanted but if there is jointness of possession or if the area is such that it can be distributed between the co-parceners in economic units it does no harm. I do not think the evil can be minimised without interfering with the law of inheritance.

Q. 44. The evil can be minimised to some extent by making legal provisions so as to restrict partition of small holdings and to confer the right of ownership to a single co-parcener to the exclusion of others on payment of value of their different shares.

Q. 45. Perhaps joint collection is meant. It is in my opinion desirable though it may be rather disadvantageous to small landlords who do not or cannot appoint salaried agents for collection of rent. The change will at all events be for the greatest good of the greatest number.

Q. 46. Though nothing has been expressly stated in the statute regarding enhancement of rent it seems to me that enhancement of rent is not repugnant to or inconsistent with the objects of the legislature. Otherwise, zamindar would have no incentive to improve the holdings of his tenants at any cost. There can be no investment without a prospect of return and a zamindari is as much a business investment as any other. By the Permanent Settlement only one-eleventh of the total rent receipts was left for the maintenance of zamindars. (*See* Taxation Committee's Report, Vol. I, page 42) and imposition of fresh taxes or realisation of abwabs which the zamindars could do previously was prohibited (Harrington's Analysis, Vol. III, pages 22-23), yet they were expected to improve their lands. It was certainly not expected of the zamindars to spend the minimum margin of profit that was left to them for the benefit of their tenants. The right of enhancement was subsequently restrained by legislation and for every ground of enhancement there was a corresponding ground of reduction of rent on the side of the tenant. The latest amendment of the Bengal Tenancy Act has even gone further to allow reduction to tenants without granting enhancements to landlords on corresponding grounds. The amendment is opposed to all sense of justice and equity and is a distinct departure from the principle followed invariably by the legislature for more than a century.

Q. 47. No; there is nothing in the Regulation that leads to the conclusion that its framers contemplated permanency and fixity of the rates of rent either in the case of the tenants who were then existing or in the case of future tenants. That would be a distinct discouragement to the landlords to invest their capital in the improvement of lands and that would decrease the value of the estate. As a matter of practice we however find that "many tenures, the incidents of which were not exactly defined when they were created, have become istimrari and mokarari by custom with the support of legislation.....and thus many tenures have become mokarari which were not so at inception." (Field's Introduction to the Regulation, page 39, section 37.) On the whole we may say that this change of character is not so much due to legislation as to custom and forbearance on the part of landlords concerned. The finally published record-of-rights of the last District Settlement operations will show that a considerable number of mokarari holdings and tenures have been recorded in every mauza the origin of most of which could be traced to sometime long after the Permanent Settlement. These mokararis are more numerous in the estates of good landlords who, though having power to enhance rent in some circumstances, never exercised the power and were content to realise the same rent always, than in the estates of other landlords who exercised their rights in accordance with law and increased the rents with the rise in the price of the staple food crops or on other grounds.

Q. 48. As I have said, the view that the Permanent Settlement intended to fix the rent of those tenancies which existed at the time does not find support in (*a*), (*b*) or (*c*). As for (*d*) the provisions of sections 6 and 50 (1) of the Bengal Tenancy Act are somewhat like the extinction of a substantive right under the law of limitation. The essential requisite for the purpose of getting a relief under either of the two sections is the fixity of the rent and not existence from the time of the Permanent Settlement. As regards (*e*), in the face of the declaration that the zamindars will enjoy exclusively the benefits of their own good management, the Government could not claim any share of the increased rent. The Government made the revenue unalterable for the sake of punctuality and safety of realisation and for the sake of general prosperity of the country and not for fixing the rent of the raiyats who were no parties to the engagement.

Q. 49. Supposing even for the sake of argument that the framers of the Permanent Settlement intended that the rents of the tenants then existing should never be increased, I do not think that there is any case for reducing the rents of such tenants if there be any to the level prevailing at the time of the Permanent Settlement. No materials are available for determining what those rates were and it is almost impossible to ascertain which of the present tenants hold the lands by

right of inheritance from the tenants of 1793, or by right of purchase either by a kobala from the tanants of 1793 or under a sale certificate at a Court sale or under a new engagement with a zamindar any time between 1793 and now. Arguments if there be any in favour of a descendant of the tenant of 1793, there is none in favour of any other, yet to ascertain who is who, one has to plunge into an antiquarian research. I do not think that the tenants have any grievance that call for a redress in this direction.

Q. 50. It was not the intention; and as such the Government committed no mistake in providing for enhancement in the Tenancy Legislations since 1859. The original rent was a share of the produce of the soil; in course of time this was commuted to money with the consent of all parties concerned. So it is quite reasonable that the rent should be increased with the rise of the price of the staple food crop. Further as the tenants have a corresponding right to get reduction of rent with the decline of price there is no cause of complaint on either side.

Q. 51. Possibly the intention was that the settlement of waste lands should be made at pargana rates as we find its indication in section 60, Regulation VIII of 1793.

Q. 52. Customary rates seem to be the safest principle to follow. This is perhaps similar to the pargana rates referred to in the old legislations. In fixing fair and reasonable rents the Courts generally take this into consideration.

"Fair and equitable rent meant, not the rate obtainable by open competition but the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent. Also that what is fair and equitable depends on the value of the produce and the cost of production." (I.W.R., p. 3).

If instead of accepting the customary rate the principle of determining the fair and equitable rents is fixed on a definite share of the produce then that should be 1/6th of the gross produce of the land as has been the rule with Hindu Kings of the past and also with the Moghul Rulers. There may be some defect in the latter principle but systems 1, 2 and 4 also are not free from defects altogether; for instance, a family of 5 members will have to pay a smaller rent than a family of 2 or 3 members for lands of equal dimensions and quality if system 2 is followed; and the tenant of a land that produces just enough to repay the cost of cultivation will enjoy the land free of rent according to system 1; and as the market value of lands varies very often system 4 will be too uncertain to follow.

Q. 53. Rents are influenced by custom and producivity. Competition scarcely determines such rents and can only be found to exercise a mild influence in Government estates. Majority of rents are

fixed at bigha rates though they are not usually based on any fixed principle or basis (*see* Taxation Committee's Report, Vol. *I*, *pp.* 77-78).

Yes, rates are found to differ greatly for lands of similar value. This difference is sometimes due to the difference in the practices of different landlords and sometimes to the amount of premium paid at the settlement and on rare occasions to personal grounds of some sort of relationship between the landlord and tenant.

Q. 54. No, so far as the Burdwan Raj Estate is concerned, it has ever since given the most liberal consideration to poor and weak tenants. Other factors which have influenced the fixing of rent in Bengal are:—

(1) Sentiments of landowners;

(2) Social position of the landlord and tenant;

(3) Public opinion;

(4) Premium or salami paid at the time of settlement;

(5) Considerations of personal service rendered by the tenant; and

(6) Competition (though very rarely).

Q. 55. If the zamindars and middlemen between the State and the raiyat are removed, then a question will arise whether a raiyat who does not cultivate his land and has sublet it to an under-raiyat will not also be removed on same principles, for otherwise the evil which is supposed to come out of the intervention of the intermediaries will continue to exist only under a disguise or a different denomination. Assuming, therefore, the position to be such as no middleman is left between the Crown and the actual cultivator to intercept the rent a readjustment of rents will, in my opinion, be necessary on a uniform basis of 1/6th of the gross produce of the land subject to an increase to the extent of ¼th according to the exigencies of the State. I do not think it will be possible to do so without preparing a new record-of-rights. (Vide Report of the Indian Taxation Committee, Vol. I, p. 85, Art. 103.)

Q. 56. I would suggest 1/6th share in the gross produce of the lands subject to an increase to the extent of ¼th share if the exigencies of the State require.

Q. 57. In such cases rent should not remain fixed but should be alterable according to the money value of the produce and the needs of the State; and the rates of rent should be re-examined every tenth year.

Q. 58. No, I do not think income-tax can adequately compensate the loss that will be sustained by total abolition of rent. It is also very

likely that a large portion of lands would escape assessment as being below the minimum that is or may hereafter be prescribed in the Income-tax Act and the net result is not likely to be profitable. With the increase of population much of the assessable income will be distributed below the minimum limit of assessment and the loss will increase from year to year with the growth of population.

Q. 59. The following are the defects that strike me in a case for enhancement of rent:—

(*a*) The presumption that the existing rent is fair and equitable until the contrary is proved as laid down in section 27 puts the landlord at a disadvantageous position while there is no such bar to a tenant in claiming reduction of rent.

(*b*) Sections 29 and 30 lay down rules for enhancement of money rent only. There should be some provisions for enhancement of produce rents.

(*c*) Section 48D leaves rather too much to the discretion of the Court in cases of enhancement of rent of under-raiyats. It seems desirable to lay down the circumstances under which enhancement can be claimed and some principles to be followed by the Court in exercising the discretion that is given to it.

Q. 60. No, the landlord being the proprietor of the soil has a legitimate right to claim a share in the benefit due to fluvial action. The tenant has a corresponding right under section 38(*a*) to get reduction of rent when the soil is deteriorated by a deposit of sand or other natural causes without the fault of the tenant; so the balance is held evenly between the two parties and there is no cause of complaint.

Q. 61. No, I have already said in my answer to question 50 that as money rent represents the landlord's 1/6th share in the gross produce of the land, it follows logically that rent will be increased with the price of the crop; the only question that may arise is whether the rise in the price should be of the staple food crop or of the crop that is grown on the land; but as a matter of fact we gradually find that the price of the staple food crops ordinarily reflects on the price of the other crops.

Q. 62. Yes; as the raiyat has the full liberty to grow any crop that he likes and he does not pay anything more than the fixed rent to the landlord if he grows the most lucrative crop on the land. Apart from the legal rights a good landlord always makes concession in fit cases and section 35 of the Act gives full discretion to the Court in the matter of granting enhancements—these are sufficient safeguards against oppression.

Q. 63. No, I would not have any objection; prevailing rate should be considered both in cases of enhancement and reduction. Just as in a suit for enhancement on the ground of prevailing rate, section *31(d)* of the Bengal Tenancy Act debars consideration of landlords' improvements, if any, for the purpose of ascertaining such rate, so it is very likely that in a case of reduction on the ground of prevailing rate restrictions might be imposed ignoring raiyat's improvements. There is no reason to apprehend that if advance payment in the shape of salami is brought to the notice of the Court, it will not be given a due consideration along with other concomitant and allied facts, e.g., remissions of rent granted by the landlord in respect of the particular holding, expenses incurred by the landlord or loss sustained by him owing to the tenant's neglect or fault, etc.

Q. 64. It is perhaps reasonable to presume that rates fixed by contract are consistent with rates prevailing in the locality and sanctioned by law. A contract cannot be enforced if it is repugnant to statutory provisions. Such being the case, I do not consider it necessary to reduce the rates that are already fixed under contract.

I do not think that existing rents for new settlements will be effective in practice though this is desirable for the purpose of preventing rack-renting. The landlord who is so inclined may easily avoid the restriction by increasing the salami.

Q. 65. Proceedings under section 104A to section 104F are not properly conductd particularly with regard to service of notice on landlords and tenants specially in the case of temporarily settled Government estates. The landlords and tenants do not get an opportunity to represent their cases before the Settlement Officers and, as a consequence of this, unreasonably high rents are very often recorded and mistakes are also made in recording the nature and extent of interests as well as other details in the settlement rent roll. As under section 104J the presumption of correctness is unrebuttably attached to the rent roll, the landlords and tenants are very often left without a remedy.

The barring of jurisdiction of Civil Court under section 109 sometimes operates harshly on parties. The section requires modification on the lines of section 11 of the Civil Procedure Code.

Q. 66. I do not know any such cases; on the other hand I have found that in many cases rents were settled at lower rates than what the landlords could claim in accordance with law.

67. It may be true in the case of temporarily settled Government estates as we fined that in the case of diara lands the rent goes up by leaps and bounds at every revisional settlement but it is not true in the case of permanently settled estates where rents are fixed generally at an endurable limit and the scope for enhancement is very small.

Q. 68. The following among others are the estates where the enhancements were obviously unfair:—

Estate No.	Area.	Previous rent.	Increased rent.
		Rs.	Rs.
3461 (Nadia)		429	892
6622 (Burdwan)		47	185
6626 (Do.)		50	123
6628 (Do.)		63	202
6630 (Do.)		200	429
6631 (Do.)		4	32
6634 (Do.)		4	185

Q. 69. Enhancement on the ground of rise in the price of staple food crops can be obtained only once in 15 years (section 37 of the Act) and enhancement is sanctioned when the average price of the last 10 years exceeds the rent that is paid by a tenant. Consequently it follows that if enhancement was given at a time when the price was beginning to fall the tenant must have reaped the benefit of increase of price for at least 10 previous years without paying any enhancement whatsoever; apparently therefore no injustice was done and the tenants have no legitimate grievance.

Q. 70. This may be due to difference in local conditions such as facilities of irrigation, chances of failure owing to floods and droughts, facilities of sale of crops, suitable markets, prices of manures, cost of labour and other implements of agriculture, paying capacity of cultivators and such other causes. It may also be due to underhand ways practised between the cultivators and the assessing staff to some extent.

Q. 71. An ordinary landlord who runs his estate on business lines will naturally feel diffident in granting remissions not only because it is difficult to get a corresponding remission of revenue from the Government but also because whatever remission he may get from the Government will not be commensurate with the remission of rent which he will have to give to his tenants. There are landlords, however, in the permanently settled estates who grant large remissions without even claiming for a remmission of revenue, as for instance, I have mentioned the Burdwan Raj Estate.

The insufficiency of remissions granted in Government khas mahals is probably due to the inherent defect that lies in the mode of enquiry. It is, perhaps, the common practice to rely on the report of the President of a Union Board who in his turn might depend on a dafadar or a chowkidar. Information received through such sources is likely to be tainted with personal prejudice and as a result thereof deserving

cases are turned down without a relief. If the petitioners are allowed to approach the Collector in person and if direct enquiries are made in the affected area by officers not below the rank of Deputy Collectors, the situation may improve.

Q. 72.

	Average yield per acre.	Average cost of cultivation per acre.
	Maunds.	Rs.
Jute	.. 15	40 to 45
Paddy	.. 18 to 24	24 to 30
Sugarcane	.. 60 to 90 of gur.	120 to 130 (including crushing and gur making).

The above represents the position in Burdwan district on an average calculation of five years.

The amount of cost and the quantity of produce often vary according to wages of labourers and weather conditions.

Q. 73. Yes, the productivity of the soil of Bengal seems to be rapidly decreasing. At present the average yield per acre has been reduced to less than half of what it used to be a hundred years ago. The reasons are the following:—

(1) Want of sufficient manure due to—

(*a*) Scarcity of cattle.

(*b*) Use of bones and skeletons in mills and factories.

(2) Deposit of sand on agricultural lands caused by annual inundation of shallow rivers like the Damodar and the Ajoy.

(3) Increasing insanitary condition of villages due to which neither initiative nor strength is left to the cultivators for improvement of their soil.

(4) Exhaustion of fertility by age and over-production.

The Government does not appear to have done much to avert the evil. Establishment of a few agricultural farms or an inadequate distribution of seeds and artificial manures has not made any noticeable improvement.

Q. 74. These legislations though ostensibly enacted for the purpose of benefiting the rural population and improving agriculture have their disadvantages which made them more or less unpopular.

(*a*) The Bengal Land Improvement Act contemplates advancing moneys to landlords for the purpose of improving their estates but the result of the investment being more or less uncertain at least from a

self-regarding point of view, the landlords naturally feel shy at incurring a debt with the stringent conditions of repayment embodied in the Act.

(*b*) The Bengal Sanitary and Agricultural Improvement Act has failed probably because the people who were supposed to be benefited did not profit as much as they expected or considered the cess which they had to pay as too heavy in consideration of the benefit which they received.

(*c*) The failure of the Bengal Rural Development Act is also due to similar reasons. The rate levied under this Act is considered to be too high and complaints are also heard very often of insufficient supply or want of supply when it is most needed.

However progressive the enactments may appear to be at first sight there is an under-current of business principles flowing within the three enactments which accounts for their inoperation.

Q. 76. My information is that at present Government realises salamis in such cases, though I am not sure when this practice first began. I have no knowledge that Government has ever utilised the salami or any portion of it for agricultural improvement.

Q. 77. The present policy of the Government is to some extent a contributory cause to the uneconomic condition of the raiyat but the main reasons are to be found in their habits which have changed so vastly with the development of modern ideas. The income which was not only sufficient for a cultivator for the maintenance of his family but also enabled him to save something for bad years in now insufficient even for the purpose of bare subsistence. A modern cultivator will readily spend money on articles of comfort or taste or any pursuits of pleasure and will borrow the very next day for buying the necessities of life which a cultivator of the old type would never have done; yet he does nothing to add to his resources. He is no longer the plain living sturdy peasant of the past who was content to live within his means and feared to go beyond his resources. He is a curious product of semi-civilised atmosphere, frail in body, discontented in mind, accustomed to make the most of the day that has dawned without caring for the morrow. Though the cultivators themselves are mostly responsible for their present uneconomic condition, the Government has been indirectly hastening their march to penury by giving them facilities for borrowing and slackening their ties with the landlords, and by creating opportunities for them to transfer their lands without restraint.

"At the same time, the pressure of the land revenue is by no means the sole, or even the main cause of a state of affairs of which low production, heavy indebtedness and excessive fragmentation of holdings are the chief symptoms. These must be attributed in the

main to other causes, such as increase in the population, paucity of alternative employments, the law of inheritance, the attachment of the people to soil and their unwillingness or inability without assistance to form their estates into economic holdings."

(Vide Report of the Indian Taxation Enquiry Committee, 1924-25, Vol. I, p. 78.)

Q. 78. The average income of a raiyat (*a*) from his holding varies according to the area of the holding, the crop which he produces, the costs of cultivation, the nature of the soil, the security of production, market facilities, and a multiple of other factors which it is almost impossible to determine. The average income may vary from place to place and from year to year; I doubt if any figure can be put down which will be universally correct. (*b*) It is still more difficult to ascertain the average income from other sources—such sources are unlimited and to my knowledge there are no statistics to throw any light on the point. In the majority of cases we find that the cultivating raiyats maintain themselves and their family from their income as they seldom beg and perhaps never steal.

Q. 79. I am not aware if there is any system or organisation at present for maintenance of the land records. Under the provisions of the Land Registration Act the proprietor of an estate is required to register his name at the Collectorate in the event of there being a change in consequence of succession or transfer and a penalty has been imposed in the Act for failure. This has served its purpose satisfactorily. There is however no provision in the Bengal Tenancy Act that compels a tenant to register his name in the Collectorate for alteration of the record-of-rights. The record-of-rights, therefore, becomes out of date within a few years from the date of final publication. The land records can be better maintained if tenants are compelled to notify changes in the tenancy by succession or transfer on penalty of a fine in the case of failure. I have no knowledge of the system prevalent in the United Provinces and am not, therefore, in a position to say how far the system will work successfully in Bengal.

Q. 80. To the methods suggested I would add the following:—

(1) By producing richer varieties of crops.
(2) By finding better markets with facilities of export and import.
(3) By offering more facilities to cultivators to secure loan on moderate terms.
(4) By reducing court fees payable in rent suits.
(5) By establishing a system of crop insurance.

Q. 81. Yes, increase of population is no doubt one of the causes as it has increased the struggle for existence by overcrowding all avenues of income.

From Statement VII of the statistics we find that between the year 1891 and 1931 the agricultural population has increased by 8·7 millions. Though there has been a corresponding increase in the area of cultivation, yet the surplus in population seems to have exceeded the agricultural needs of the country; it may roughly be estimated at about 20 per cent.

Q. 82. Yes, this is one way of relieving the pressure but there are other ways too as suggested in question 80.

Q. 83. Within the last few years the land mortgage banks and also the village co-operative societies have not done much to facilitate rural credit. Rules of these organisations have often proved too technical and rigid to the uneducated mass of agriculturists and loans are often issued within a limited circle after much delay and waste of time.

Besides land mortgage banks and co-operative credit societies Government have from time to time issued tuccavi loans to the agriculturists specially during periods of scarcity; but in such cases loan is sometimes advanced on the joint and several responsibility of the borrowers making thereby anyone of the borrowers liable for the default of others. Owing to these defects it has not been possible for many agriculturists to secure necessary loans in times of need. It is desirable therefore that the rules of the existing credit organisations be changed or some new types of organisations established on more liberal lines and with less complications in their procedure.

Q. 84. A certain percentage of the gross produce of land goes to the mahajans by way of interest no doubt, but I cannot say whether it is 25 per cent. or more or less. 25 per cent. is, I believe, an overestimation. I do not however think that the money which the mahajan gets from the borrower be considered as an annual drain. He plays a very important part in rural credit. He is the only person to whom an agriculturist may look up for immediate help in times of need. Under the restraint of Usurious Loans Act and Agricultural Debtors' Act he is debarred from realising interests at usurious rates and has to wait for years for the recovery of the principal amount in small instalments. He runs a great risk in lending money to agriculturists without sufficient means. But under proper restraint as he is at present he is an indispensable friend of the cultivator. If his rates are a little higher than the bank rates that finds ample justification in the risk that he takes.

Q. 85. Banking Enquiry Committee estimated the total rural credit at about 100 crores of which 4½ crores are supplied by co-operative societies and the loan offices supply only 2 crores. The bulk of the requirements must therefore be supplied by private moneylenders.

The part played by these moneylenders in helping the agriculturists is therefore much more important than the help offered by the co-operative societies and other organisations, and the societies have served very little of the purpose for which they were started. The rate of interest charged by the societies from the agriculturists is 12½ per cent. on long term loans and Rs. 9-6 per cent. on short term loans. This is almost as much as the average moneylender realises from the debtor, yet the money comes from him more readily and his ways of realisation are much less rigid and much more accommodating. These disadvantages account for the short work of the societies to a great extent. I am not aware if any of the co-operative societies have succeeded in wiping out the debts of their members. None of the societies in Burdwan could do so.

Q. 86. The Debt Settlement Boards have done a service to the debtors, agriculturists and pseudo-agriculturists, by giving them time to pay up their existing debts by convenient instalments but it has practically closed the doors of all capitalists against them. The chances of the debtors being able to pay up their debts regularly according to the instalments fixed by the Board are not very great, so the ultimate result of this legislation may be to place the borrowers in a much more precarious position than where they were. The statute is too full of imperfectious and anomalies and the administration of the law is bound to create doubts and difficulties. The Board very often consists of half educated men of no status or merit. "No useful purpose will be served by throwing into prominence the absurdity of having intricate questions tried by a tribunal of commonsense, often perhaps unlettered commonsense. The whole policy of the Act is that rights and liabilities regarding monetary obligations will be determined by a tribunal of laymen according to such lights as nature may have given them. In a sense the Act is an Insolvency Act: in another sense it is a confiscatory measure inspired by the spirit which lies behind the doctrines of communism. Even so we think it would be better if some provision had been made for a reference to Court for decision on troublesome points of law like what is to be found in the Arbitration Act." (C.W.N. Vol. XLI, Notes P. CII.X.)

Commenting on section 40 of the Act, the Editor of the *Calcutta Weekly* Notes said:—

"It is somewhat refreshing to find that the old spirit so rarely found now-a-days in superior Courts has incarnated itself in rural Bengal in the persons of appellate officers. Denying jurisdiction is at present the rule rather than the exception and therefore Courts which assume jurisdiction set up a heartening example. Let them go strong. It is undoubtedly a pity that parties should be the string by which they are pulling from different ends, but in a measure which is inequitable

from beginning to end, one ought not to expect any equity. When the strain reaches such a degree of intensity that it can no longer be borne the public themselves will rise against the Act and secure its repeal or the overthrow of its sponsors. Till then, we wish god-speed to the appellate officers who are serving the public cause by generating friction and preparing a case for an overhauling of the Act." (C.W.N. Vol. XLII, No. 18, Notes P. IXX.)

The principal defects that occur to me are—

(*i*) Inclusion of rent within the definition of debt.

(*ii*) The very wide jurisdiction given to the Board.

(*iii*) The exclusion of the jurisdiction of Civil Courts and prohibition against appearance of pleaders.

(*iv*) Absence of requisite qualification in the personnel of the Board.

Speaking generally the Act is in substance saturated with ruthless disregard of contractural rights of individuals. In form it is a revival of the crude system of adjustment of rights through the agencies of *Quazis or Mandals. The original idea was probably* to invent a measure of giving relief to the improvident mass of cultivators against their creditors at a minimum cost but the Act has failed to serve both the objects. Driven to desperation the creditors have ceased to lend money to the agriculturists and the landlords hesitate to help them with paddy and manures; yet the solution of the problem of existing liabilities is not all that is required for the protection of the cultivators—their wants are increasing with the growth of civilisation and their resources are limited to a few bighas of land; so they must seek the help of their landlords and credit over and over again. Unless therefore the Government can find means to help these people with money in times of need, they can never be relieved and never enjoy the benefit which the Act proposed to confer on them.

Q. 87. As we find co-operative credit societies taking up only 4½ per cent. of the problem which too they are unable to secure, and the private moneylenders tightening their fists for fear of the operation of the Debt Settlement Boards it is quite up to the Government to establish agricultural banks in every union for advancing money to the agriculturists in times of need. The average agriculturists must borrow once a year to meet the costs of cultivation in some cases, to find provision for himself and his family, and the mahajan to whom he looked so long in exigencies has closed his doors. It is incumbent on the Government now to come forward with funds to help the agriculturists. The Bengal Agricultural Debtors Act was designed by the Government with a view to protect the improvident mass of agriculturists but unless rural banks are very soon established by the Government to meet the immediate

needs of agriculturists the objects of the statute will be completely frustrated and the agriculturists will be thrown into an utterly helpless position.

Q. 88. These banks are not doing much business and they are rarely accessible to the poor cultivators.

Q. 89. Yes, the expense can be minimised to a great extent by—

(*a*) Reducing court fees and process fees.

(*b*) Expediting and simplifying execution proceedings.

(*c*) Serving summons and notices by registered post.

(*d*) Empowering the landlords to take recourse to the certificate procedure as an alternative measure or vesting them with summary powers of distraint.

(*e*) By annulling the Bengal Agricultural Debtors' Act.

(*f*) By checking with a strong hand the abuses prevalent in Courts.

Q. 90. It is harassing and oppressive for the following reasons:—

(1) The Executive Officers who hold the proceedings are generally impatient.

(2) Justice is very often sacrificed for the sake of expedition.

(3) Intricate questions of law and fact very often arise in contested cases and the Executive Officers cannot properly tackle them.

(4) Office orders and instructions issued by the Revenue authorities are misunderstood and followed in contravention of the provisions of the statute.

(5) The initial court fee costs and the process fees are the same as in civil suits. So there is very little of economy though the ultimate decision is inferior in merit and consequence.

(6) The delay in the disposal of cases owing to insufficiency of hands in the Certificate Courts who have several other additional duties to perform.

(7) The entertainment of frivolous objections which are *prima facie* untenable and absurd and the delay in the disposal of contested cases which often take as long as contested civil suits do.

The tenants consider the procedure as unduly harsh only because of the warrants of attachment of movables which the Certificate Courts invariably issue at the first instance. Though the warrants seldom succeed in the case of private landlords, all the same they are odious as bringing disgrace on the certificate debtor who finds the Collectorate peons more difficult to avoid than a Civil Court peon.

The remedy lies—

(a) In reducing the court fee and the process fee rates.

(b) In advising Certificate Officers to serve the ends of justice conscientiously even at a sacrifice of expedition and to attach more value to the statutory provisions than to office orders and instructions.

(c) In providing adequate staff who can sufficiently cope with the volume of work

Or

In the alternative by changing the forum to Civil Courts.

Q. 91. Yes. Provided the Act is properly drafted. If the repeal of the old Regulations and earlier Acts is done only with the object of their consolidation into a simpler Act without any change of policy then it will be very useful but if it involves a change of policy or alteration of the main principle underlying a Statute, then public opinion should be invited before a change is made.

Q. 92. Act XI of 1859 requires amendment as some of its provisions appear to be too rigid. Section 6 of Act XI of 1859 should be amended so as to empower the zamindar to pay the revenue with or without penalty any time before the sale or within one month after the sale.

The Patni Regulation (Regulation VIII of 1819) which was enacted on the lines of Act XI of 1859 was amended to allow the patnidar to pay the patni rent within a month from the date of the sale. So a corresponding relaxation of the Revenue Sale Law is necessary for the protection of the zamindars.

Section 14 of the Act should be so amended as to provide for a notice by registered post being served on the owners of different shares in case the sale-proceeds of a share are insufficient to meet the arrears of revenue due on account of that share. It often happens that the owners of different shares with separate accounts do not attend the sale that is held of another share (of which they are not the owners). Unless they receive a notice they cannot avail of the advantage offered under section 14 of purchasing the defaulting share and are seriously prejudiced by a sale that is subsequently held of the entire estate under section 21.

A co-sharer purchaser under the provisions of section 14 should also be entitled to get the share free from all encumbrances.

Regulation VIII of 1819 (Patni Sale Law) requires amendment on the point of service of notice on the defaulting tenure. The procedure laid down in section 8 of the Regulation operates harshly on the zamindars inasmuch as he can seldom prove service of notice on the defaulting tenure. The law throws the whole onus on the zamindar to prove that the sale notices were served and all other formalities were observed

in strict accordance with the provisions of the Regulation. Regarding service of notice on the defaulting tenure, the provisions are that it should be served by a single peon who shall bring back the receipt of the defaulter or of his manager or the signatures of three substantial persons residing in the neighbourhood in attestation of the notice having been brought and published on the spot. It is least to be expected that a patnidar who defaults wilfully and subsequently institutes a suit for setting aside a sale on the ground of material irregularity in the publication of sale notices, or his manager, will ever sign a receipt, or even if he has signed will admit his signature. It has also been found impossible to produce three substantial men of the village to admit their signatures or to give evidence of service in Court as the patnidar being the man on the spot wields much greater influence on the residents of the village than the zamindar and has the fullest control over them. As a result of this whenever there is a suit for setting aside a patni sale, the zamindar loses the cases and the patnidar is restored in possession of the tenure without payment of the arrear rents which are admittedly due. The Regulation therefore requires amendment in the following directions:—

(*a*) Provision should be made in section 8 for alternative service of notice on the registered patnidar or the owner of the patni for the time being by registered post.

(*b*) Section 14 of the Regulation should be so amended as to provide that no suit to set aside a sale on the ground of irregularity in the publication of sale notices or on the ground of irregularities in holding the sale shall be maintained unless the plaintiff deposits in Court the amount of arrears with interests up to date. There is a similar provision in clause (*3*) (*e*) of section 174 of the Bengal Tenancy Act which is fair to all parties.

The time-limit for instituting a suit under section 14 of the Regulation should be fixed at 6 months from the date of sale as the present limit of one year is unreasonably long and leaves the zamindar and the auction purchaser in an uncertain position.

Q. 93. The amendments made to the Bengal Tenancy Act in 1938 have injured the economic position of the landlords in more ways than one. They were the outcome of a doubtful if not altogether erroneous conception of the relative position of landlord and tenant and an unfounded notion of the latter being squeezed and oppressed by the former. The correctness of the statements was measured by the pitch of the voice and consequently the noisier of the two won the strife.

(*a*) The abolition of landlords' fees has resulted in a loss of 36·74 lakhs of rupees to the landlords in the average for last 8 years up to 1936-37 according to the statistics collected by the Land Revenue Commission (*vide* Statement XIV). According to the estimate made by the

Hon'ble Minister-in-charge of the Revenue Department it is Rs. 40 lakhs. The bulk of this amount lost by the landlords, if not the whole of it, will enure to the benefit of the tenants. The landlords' right to receive a salami in the event of transfer was freely exercised and seldom if ever questioned in the past, so it is to be viewed as the loss of a legitimate demand which detracts a good deal from the value of his property. On the other hand the abolition of the only restriction against transfer will encourage the improvident and thoughtless raiyats to sell off their only property on earth and lead them on to deprivation in fast strides. (Sections 3, 4, and 5 amending sections 26 to 26E of the Act of 1928.)

(*b*) The right of pre-emption being denied to the landlords they are now forced to pull on with undesirable tenants who may not have the mind or means to pay the rent. Realisation of rent is necessarily jeopardized and that will prejudicially affect the value of the estate. It further extinguishes one of the easiest possibilities of preventing fragmentation of holdings below the economic standard. (Section 6 amending section 26F of the old Act.)

(*c*) The limitations imposed on usufructuary mortgage are an unwarranted interference with contractual rights of individuals in the name of public good. It will have a deterrent effect on the capitalists and will create difficulties in the way of the tenants incurring a debt on easy terms as before. (Section 7 amending section 26G of the old Act.)

(*d*) Suspension of provisions relating to enhancement of rent for a period of ten years from 27th August 1937 without a corresponding provision regarding reduction of rent is iniquitous and unjustifiable. It is based on a supposition that the tenants are rack-rented by landlords but if the Government is to be followed as the ideal landlord the statistics obtained by the Land Revenue Commission will show that the rate of rent in the estates owned by the private landlord is lower than the rate prevailing in Government mahals (Statement IX). The amendment is therefore distinctly prejudicial to the economic interests of the landlords. (Section 21 inserting a new section 75A in the old Act.)

(*e*) The right of surrender given to a tenant irrespective of the consent of the landlord and irrespective of the duration of the lease is an innovation that puts the landlord in a disadvantageous position. It gives the tenant the right to enjoy the land so long as it yields the profit that he expects and to relinquish it immediately there is a loss or the amount of profit is not quite up to his expectation. As the landlord has no right to evict a tenant with any permanent right or right enduring for a fixed period, to give a right to such a tenant to retire at his will and pleasure, is opposed to all sense of justice unless the maxim to

be followed is "tenants are always to gain and the landlords to lose". (Section 22 inserting section 85A in the old Act.)

(*f*) The provisions relating to abatement of rent on account of diluvion and the subsistence of tenant's right to regain possession of the reformed land for 20 years are all one-sided. While taking the most tender care of the tenant they throw the landlord into the deep sea. The landlord is forced to grant reduction of rent to the tenant for the diluviated area though his way to get reduction of revenue is beset with insurmountable difficulties and he may have to sustain this loss for full 20 years, yet the tenant is given the right to claim it back on payment of 4 years' rent only. If the law required the tenant to pay the rent of the full period that was lost to the landlord it would have been fair but to make the tenant gain at the expense of the landlord is an instance of robbing Peter to pay Paul. (Section 24 amending section 86A of the old Act.)

(*g*) The provisions authorising division of tenure or holding without the consent of the landlord are not only injurious to the landlords but also directly hostile to the idea of formation of economic holdings. It increases the collection expenses of the landlords, impairs the security for payment of rent and reduces the value of the holding. From the viewpoint of tenants it is beneficial to some extent inasmuch as it enables a solvent and good tenant to get rid of the disadvantage of being associated with an impecunious or refractory co-sharer. Such jointness of possession and interests cannot be permanently cured in Bengal where the Dayabhaga law of succession prevails. While therefore the advantage to the tenant is merely of a temporary nature, the mischief in the shape of decrease in the value of the property is permanent. (Section 25 amending section 88 of the old Act.)

(*h*) The reduction of the rate of interest from 12½ per cent. to 6¼ per cent. has caused a considerable loss to the landlords. Though remissions of rent and interests are voluntarily given by the landlords in fit cases irrespective of the provisions of legislation, they have every reason to feel aggrieved at the compulsory reduction of the rate. Just as there are good landlords and bad landlords so also there are good tenants and bad tenants. If a good landlord remits rent and interests freely to good or deserving tenants there is no reason why he should not be allowed to realise interest at the rate of 12½ per cent. from refractory tenants or wilful defaulters. If the co-operative societies and ordinary moneylenders have the right to realise interest at the rate of 12½ per cent. or more and if the tenants can pay them at that rate, there is no reason why they cannot pay the landlord at the same rate.

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